

**Request for Proposals  
For**

**FC10451, Moores Mill Road Multimodal Roadway Extension  
and Transit Layover Facility**



**Atlanta, Georgia**

**William Johnson  
Commissioner  
Department of Public Works**

**Susan M. Garrett  
Interim Chief Procurement Officer  
Department of Procurement**

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# **PART 1**

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## **INFORMATION AND INSTRUCTIONS TO PROPOSERS**

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

- 1. Services Being Procured:** This Request for Proposal (“RFP”) seeks qualified Architectural and Engineering Firms (“Proponent” or “Proponents”) by the City of Atlanta (the “City”), on behalf of the Department of Public Works (“DPW”), to provide statements of qualifications and technical proposals to undertake the design of Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility.

This RFP shall comply with the Competitive Negotiation/Qualifications Based Selection procurement procedures as specified in 40 US Code 1101-1104 (Brooks Act). The RFP is divided into two phases. Phase I addresses the qualification process and does **not** include proposed fees or Office of Contract Compliance goal certifications. Proposed fees and OCC goal certifications are addressed in Phase II during negotiations with the most qualified Proponent(s) as selected in Phase I.

- 2. Scope of Services:** A more detailed Scope of Services (“SOS”) sought in this procurement is set forth in Exhibit A – Scope of Services attached to the Services Agreement (“Services Agreement”); Contract No. **FC-10451, Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility**, included in this RFP at Part 5.<sup>1</sup>
- 3. Method of Source Selection:** This procurement is being conducted in accordance with all applicable provisions of the City’s Code of Ordinances, including its Procurement and Real Estate Code and the particular method of source selection for the services sought in this RFP is Code Section 2-1193; 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 City’s Code of Ordinances and Charter, which laws are incorporated into this RFP by reference.
- 4. Minimum Qualification; Authority to Transact Business in Georgia:**
  - 4.1. Each Proponent must submit with its Proposal documentation that demonstrates it is duly authorized to conduct business in the State of Georgia
  - 4.2. The Prime Consultant or one of their subconsultant team members must be prequalified by GDOT in all of the area classes listed below:
    - 3.02 Urban Roadway Design
    - 3.08 Landscape Architecture
    - 3.09 Traffic Control Systems Analysis, Design and Implementation
    - 3.10 Utility Coordination
    - 3.13 Bicycle and Pedestrian Facility Design
    - 5.02 Engineering Surveying
    - 6.01(b) Geological and Geophysical Studies
    - 9.01 Erosion, Sedimentation and Pollution Control Plan (ESPCP) Preparation

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

4.3. Proponent must be prequalified in the indicated Area Classes in order to be evaluated. Teams must submit proof of prequalification.

**5. No Offer by City; Firm Offer by Proponent:** This procurement does not constitute an offer by City to enter into an agreement and cannot be accepted by any Proponent to form an agreement. This procurement is only an invitation for offers from interested Proponents and no offer shall bind City. A Proponent's offer is a firm offer and may not be withdrawn except under the rules specified in City's Code of Ordinances and other applicable law.

**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., EDT** (as verified by the Bureau of National Standards) on **Wednesday, August 15, 2018**. Any Proposal received after this time will not be considered and will be rejected and returned.

**7. Proposal Guarantee: (Not Applicable)**

7.1. Each Proponent is required to furnish a Proposal guarantee in the amount of five percent (5%) of the Lump Sum Amount. At the option of the Proponent, the Proposal Guarantee may also be cash, a certified check payable to the order of City or a Proposal Bond as provided on Form 8 included in part 4 herein. A surety executing a Proposal Bond must meet the requirements set forth in Appendix B – Insurance and Bonding Requirements attached to the Agreement included in this RFP. The Proposal Guarantee should be provided by the Proponent Joint Venture members or entity(ies) regardless of allocation of ownership between participating parties.

7.2. Each Proponent agrees that, if it is awarded the Agreement and fails to execute provided all other documents required to consummate the transaction within fifteen (15) days of the award, City will retain the Proposal Guarantee as liquidated damages and not as a penalty.

**8. Pre-Proposal Conference:** Each Proponent is highly encouraged to attend the Pre-Proposal Conference scheduled for, **Tuesday, July 31, 2018 at 10:00 A.M. EDT.**, in the Department of Procurement's Bid Room, Suite 1900. Each Proponent must be fully informed regarding all existing and expected conditions and matters which might affect the cost or performance of the Services. Any failure to fully investigate the job requirements shall not relieve any Proponent from the responsibility of evaluating the difficulty or cost of successfully performing the Services properly.

**9. Procurement Questions; Prohibited Contacts:** Any questions regarding this RFP should be submitted in writing to the City's contact person, Jesse Wilson, Contracting Officer, Department of Procurement, 55 Trinity Avenue, SW, Suite 1900, Atlanta, Georgia 30303, by fax (404) 865-8736 or e-mail [jewilson@atlantaga.gov](mailto:jewilson@atlantaga.gov) **on or before Thursday, August 2, 2018 at 12:00 P.M. EDT.** Questions received after the designated period may not be considered. Any response made by the City will be provided in writing to all Proponents by addendum. It is the responsibility of each Proponent to obtain a copy of any addendum issued

for this procurement by monitoring the City's website at <http://www.atlantaga.gov/procurement> 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.

**10. Ownership of Proposals:** Each Proposal submitted to the City will become the property of the City, without compensation to a Proponent, for the City's use, in its discretion.

**11. 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.]"

**12. How to Submit Proposals:** The Proposals 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-10451, Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility**; and, the name and address of the Proponent. All proponents must be submitted to:

**Susan M. Garrett**  
**Interim Chief Procurement Officer**  
**Department of Procurement**  
**55 Trinity Avenue S.W.**  
**City Hall South, Suite 1900**  
**Atlanta, GA 30303-0307**

**12.1.** A proponent is required to submit one (1) original and six (6) copies of its Informational Proposal. Each Informational Proposal must be submitted on 8½" x 11" single-sided, double-spaced, typed pages, using 12-point font size and such pages must be inserted in a standard three-hole ring binder. Each Informational Proposal must contain an index and separate sections for the information requirements set forth in this RFP, as well as for the forms required to be submitted.

**12.2.** In addition to the hard copy submission, each Proponent must submit two (2) digital versions of its Proposal in Adobe Portable Document Format (PDF) on compact disk (CDs). CD One (1) version should be a duplicate of the hard copy of the Proposal with no deviations in order or layout of the hard copy Proposal. CD Two (2) version should be a redacted version of your hard copy Proposal.

Please refer to the Georgia Open Records Acts (O.C.G.A. Section 50-18-72) for those items of documents that can be redacted.

- 12.3.** The City assumes no liability for differences in information contained in the Proponent's printed Proposal and that contained on the CDs. In the event of a discrepancy, the City will rely upon the information contained in the Proponent's printed material (Hard Copy). Each CD should be labeled with the Project Number, Project Name, and the CD Number.
- 13. Insurance and/or Bonding Requirements:** The Insurance and/or Bonding requirements for any Agreement that may be awarded pursuant to this RFP are set forth in Appendix B- Insurance and Bonding Requirements attached to the Services Agreement included in this RFP.
- 14. Applicable City OCC Programs:** The City's Office of Contract Compliance ("OCC") Programs applicable to this procurement are set forth in Appendix A; Office of Contract Compliance Submittals, attached to the Services Agreement included in this RFP. By submitting a Proposal in response to this procurement, each Proponent agrees to comply with such applicable OCC Programs.
- 15. 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. The City will review the information included in **Form 3; Proponent Financial Disclosure** 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 a Payment Bond and/or Performance Bond if an Agreement is awarded, the City will review the information included in **Form 4.2; Certification of Bonding Ability and Form 4.1; Certification of Insurance Ability**, 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 an Agreement is awarded to it. Further, if this RFP requires a successful Proponent that is awarded an Agreement 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 an Agreement is awarded to it.
- 16. Special Rules Applicable to Evaluation of Proposals:** A Proponent may be required to submit, in writing, the addresses of any proposed subcontractors or equipment manufacturers listed in the Proposal and to submit other material information relative to proposed subcontractors. The City reserves the right to disapprove any proposed subcontractors whose technical or financial ability or resources or whose experience are deemed inadequate.
- 17. Examination of Proposal Documents:**
- 17.1. 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.

17.2. Each Proponent shall promptly notify the City in writing should the Proponent find discrepancies, errors, ambiguities or omissions in the Proposal Documents, or should their 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 City.

17.3. The City may, in accordance with applicable law, by addendum, modify any provision or part of the 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.

17.4. Each Proponent must confirm Addenda have been received and acknowledge receipt by executing **Form 5; Acknowledgment of Addenda** attached to this RFP at Part 4.

**18. Oral Presentations and Demonstrations:** All responsive Proponents may be required to make an oral presentation of their proposed solution to the City's Evaluation Committee. The Key Personnel (or some group thereof) as identified in the Proponent's proposal must be active participants in the oral presentation. The Proponent's presentation should focus on an understanding of the capabilities of the proposed solution. The City will notify responsive proponents of the date, time and location for the presentation, and will supply an agenda or topics for discussion.

**19. Cancellation of Solicitation:** This solicitation may be cancelled in accordance with the City's Code of Ordinances.

**20. Award of Agreement; Execution:** If the City awards an Agreement pursuant to this procurement, the City will prepare and forward to the successful Proponent an Agreement for execution substantially in the form included in this RFP.

**21. Illegal Immigration Reform and Enforcement Act:** This RFP is subject to the Illegal Immigration Reform and Enforcement Act of 2011 ("IIREA" or "the Act"). IIREA was formerly known as the Georgia Security and Immigration Compliance Act or GSCIA. 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. A completed Contractor Affidavit (**Form 1**), set forth in Part 4; Illegal Immigration Reform and Enforcement Act Forms, must be submitted on the top of Volume II 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 (**Form 1**) 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 (**Form 1**). 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 (**Form 1**) precedes the Affidavit.

- Potential Offerors may submit their Contractor Affidavit Forms for review via the City's IIREA Preview Participation Program, not less than ten (10) days prior to the Bids/Proposals due date. The IIREA Preview Participation Form is set forth in Part 6, included in the Request for Bid/Proposal.

**22. Multiple Awards:** The City reserves, at its sole discretion, the option to award to multiple Proponents. The award(s) will be based on the SOS in its entirety or by components. Multiple awards may be made on the total SOS or components of the SOS.

**23. Brooks Act:** In accordance with the provisions of the Brooks Act, the City will evaluate firms based on their demonstrated competence and qualification. Price is excluded as an evaluation factor. Negotiations will be conducted with only the most qualified offeror; and only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified offeror. (40 U.S.C. 1101-1104)

## **PART 2**

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### **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.
- 2. Informational Proposal:** An Informational Proposal is comprised of two (2) sources of information:
  - 2.1. Volume I, information drafted and provided by a Proponent; and
  - 2.2. Volume II, information provided by a Proponent on forms provided by the City (or required to be created by a Proponent) in this RFP.

**The Informational Proposals must be tabbed as indicated to reflect the sections listed in the Outline below.**

### **3. Information Required to Be Included in Informational Proposal:**

- 3.1. Summary: The following is a summary of information required to be contained in an Informational Proposal:
  - 3.1.1. Information Drafted and Provided by a Proponent: This information should be included in **Volume I** of the Proposal:
    - 3.1.1.1. Executive Summary;
    - 3.1.1.2. Team Organization and Qualifications of Key Personnel;
    - 3.1.1.3. Prior Experience;
    - 3.1.1.4. Project Understanding, Technical Approach and Project Management Plan.
  - 3.1.2. Information Provided by a Proponent on Forms Provided by the City: This information should be included in **Volume II** of the Proposal:
    - 3.1.2.1. Forms attached to this RFP at Part 4: This information should be included in **Volume II** of the Proposal:
      - 3.1.2.1.1. Form 1; Georgia Illegal Immigration Reform and Enforcement Act (IIREA) Form;
      - 3.1.2.1.2. Form 2; Contractor Disclosure and Declaration Form;
      - 3.1.2.1.3. Form 3; Proponent Financial Disclosure;
      - 3.1.2.1.4. Form 4.1; Certification of Insurance Ability;
      - 3.1.2.1.5. Form 4.2; Certification of Bonding Ability (N/A);
      - 3.1.2.1.6. Form 5; Acknowledgment of Addenda;
      - 3.1.2.1.7. Form 6; Proponent Contact Directory;
      - 3.1.2.1.8. Form 7; Reference List;
      - 3.1.2.1.9. Form 8; Proposal Bond (N/A);
      - 3.1.2.1.10. Authority to Transact Business in the State of Georgia; and
      - 3.1.2.1.11. Required Federal Provisions.

**NOTE: Every space on every form must be completed. If the form requires a Notary, please comply. Failure to complete each form as required may deem you non-responsive. If there are any questions regarding any form, it is strongly recommended that you submit your question(s) to the Contracting Officer listed in the RFP prior to the deadline for submitting questions.**

- 3.2. Information Requirements Details: The following is a more detailed summary of the requirements of certain portions of the Informational Proposal. Each Outlined Item should be included in your Proposals and tabbed as indicated:

**3.2.1. Executive Summary – (Tab in Volume I)**

3.2.1.1. Cover Letter: The executive summary must include a letter with the Proponent's name, address, telephone number and email, signed by a person authorized to act on behalf of the Proponent. The letter should 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, and telephone 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 should also designate the type of business entity that proposes to enter into a Contract with the City and the identity of any other business entities that will comprise the Proponent and include a brief history of the Proponent and statement of the Proponent's approach to providing the services solicited in this RFP.

3.2.1.2. Detailed Executive Summary: The purpose of the Detailed Executive Summary is to provide an overview of the Proponent's qualifications to accomplish the project. At a minimum, the Detailed Executive Summary must contain the following information:

3.2.1.2.1. 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;

3.2.1.2.2. 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 comparable projects and a description of the Team's unique strengths, qualifications and experience;

3.2.1.2.3. A description of the Proponent's plan for complying with the City's EBO goals. This section should include detailed information regarding the essential subcontractors/subconsultants the Proponent intends to use and should indicate the roles 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

3.2.1.2.4. Litigation Disclosure Statement. A declarative statement as to whether the Proponent or any member of the Proponent's team has an open dispute with the City or is involved in any litigation associated with work in progress or completed

work in either the private or public sector during the past five (5) years.

- 3.2.2. Team Organization and Qualifications of Key Personnel– (Tab in Volume I):** The Proponent’s Organizational Structure Section of the Proposal should be in graphical and narrative format. Charts must contain the following information:
- 3.2.2.1. Organizational Chart: Proponent’s must provide an Organizational Chart of the Proponent project team, providing the names and roles of the key personnel and the relationship between the key personnel anticipated to be needed at inception of Agreement;
  - 3.2.2.2. Team Qualifications: Please provide a narrative statement of qualifications that identifies the project manager and design leader and describes their relevant qualifications and experience on similar projects. Additionally, identify other significant project team members, and describe their relevant qualifications, experience, and the tasks for which they will be responsible. The statement of qualifications should highlight the team members’ experience and understanding of pedestrian safety issues on urban roadways, as this is a key aspect of the project. Proponent should discuss how the team was formed, how long and in what capacity the team members or subconsultants have worked together, and how the team will function as an integrated unit in providing the services described in the Scope of Services and in Appendix C, Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility Concept;
  - 3.2.2.3. Resumes: In addition to the narrative statement of qualifications, please provide resumes of the key personnel. (Project Manager, Design Leader, and other significant team members) The resumes should not be considered a replacement for the narrative statement of qualifications, but a supplement to it. Resumes should be organized as follows:
    - 3.2.2.3.1. Name and Title;
    - 3.2.2.3.2. Professional Background;
    - 3.2.2.3.3. Current and Past Relevant Employment;
    - 3.2.2.3.4. Education;
    - 3.2.2.3.5. Licenses and Certifications;
    - 3.2.2.3.6. List of (3) Relevant projects, including:
      - 3.2.2.3.6.1. client name;
      - 3.2.2.3.6.2. project description;
      - 3.2.2.3.6.3. project value;
      - 3.2.2.3.6.4. role of the individual;
      - 3.2.2.3.6.5. the original contract schedule to start and complete the project; and the actual start and completion dates of the project;
      - 3.2.2.3.6.6. reference contact.
  - 3.2.2.4. Submission of these names constitutes a commitment to use these individuals if the Proponent is selected, and changes may be made only with the prior written consent of the City. In the event there is a need to replace key team members during the course of the project, Proponent must describe its back-up personnel plan.

**3.2.3. Prior Experience (Tab in Volume I):**

- 3.2.3.1. Demonstrate the ability to perform the work outlined in the scope of services on schedule and within budget by including a minimum of three (3) and up to six (6) examples of similar or related projects successfully completed within the last five (5) years.
- 3.2.3.2. Please provide a thorough description of all aspects of the example projects, with a special focus on pedestrian safety and connectivity.
- 3.2.3.3. Please highlight any innovative aspects to the design or implementation of these projects, as well as an explanation of any unusual challenges posed by these projects and how these challenges were addressed.
- 3.2.3.4. For each project, list the name and roles of all Proponent team members involved.
- 3.2.3.5. For all projects, please include the name, phone number, and email address for a representative of the client who can directly attest to the quality of the Proponent's work on the Project. For work in which your firm worked in an auxiliary capacity, please also include the name and a contact information for the lead firm.

**3.2.4. Project Understanding, Technical Approach and Project Management Plan (Tab in Volume I):**

- 3.2.4.1. The statement of project understanding should demonstrate a clear understanding of the Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility, including relationship of the proposed projects to existing plans and studies, and transportation needs and safety concerns along the corridors.
- 3.2.4.2. The Technical Proposal should provide as much detail as necessary to convey the team's proposed approach, work plan, and tasks anticipated. Please identify the products that would result from each task, and a preliminary timeline for the design portion of this project. Please discuss any potential risks, conflicts, or challenges the project may face and how the Proponent may address these.
- 3.2.4.3. The project management plan should describe based in the Proponent's organizational structure, how the Proponent will manage the services to ensure cost effective, on-schedule, and well-designed plans. Please specifically address the following: how the Proponent will manage communications and coordination amongst the team and with the City; how will the individual tasks and the projects as a whole be kept within an established schedule and budget; a description of the quality assurance/quality control measures that will be used.

- 4. PHASE II - Proposal Labor Fee Schedule** After a Qualified submittal has been chosen, a Fee Proposal and OCC Submittals must be submitted by the successful Proponent within ten (10) calendar days of notification. Should the Proponent fail to submit the Fee Proposal and OCC submittals to the City within ten (10) calendar days after notification, the City can declare the negotiations failed and shall have the sole right without liability to notify the next qualified proponent. The Cost Proposal Fee Schedule Form is attached to the Services Agreement attached to this RFP at Part 5. **When requested this form should be submitted, in a separate,**

**sealed envelope, clearly marked “Cost Proposal”. Submit one (1) original, marked “Original” and six (6) copies.**

4.1. Exhibit A.1 – Cost Proposal Fee Schedule **(When requested this should be submitted in a separate sealed envelope and labeled “Cost Proposal Fee Schedule”)**

4.2. Appendix A; City’s OCC Programs, Office of Contract Compliance Submittals;

**5. Submission of Proposals:** See Part 1, Paragraph 12.0, “How to Submit Proposals” of this RFP.

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

A. The responsiveness of a Proponent is determined by, but not limited to, the following:

1. A timely and effective delivery of all services, materials, documents, and/or other information required by the City;
2. The completeness of all material, documents and/or information required by the City; and
3. The notification of the City of methods, services, supplies and/or equipment that could reduce cost or increase quality.

B. The responsibility of a Proponent is determined by, but not limited to, the following:

1. The ability, capacity and skill of the Proponent to perform the Agreement or provide the Work required;
2. The capability of the Proponent to perform the Agreement or provide the Work promptly, or within the time specified without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the Proponent;
4. The quality of performance of previous contracts or work;
5. The previous existing compliance by the Proponent with laws and ordinances relating to the Agreement or Work;
6. The sufficiency of the financial resources and ability of the Proponent to perform Agreement for providing the Work;
7. The quality, availability and adaptability of the supplies or contractual Work to the particular use required; and
8. The successful Proponent shall assume full responsibility for the conduct of his agents and/or employees during the time such agents or employees are on the premises for the purpose of performing the Work herein specified.

**6. The City will carefully evaluate the responsiveness and responsibility of each Proponent.**

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

## **PART 3**

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# **EVALUATION OF PROPOSALS**



### **Part 3; Evaluation of Proposals**

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

All Proposals will be evaluated using the following Evaluation Form:

<b>RELATIVE WEIGHT</b>	<b>GRADED ITEM</b>	<b>SCORE</b>
<b>10</b>	<b>Executive Summary</b>	
<b>25</b>	<b>Team Organization and Qualifications of Key Personnel</b>	
<b>25</b>	<b>Prior Experience</b>	
<b>30</b>	<b>Project Understanding, Technical Approach and Management Plan</b>	
<b>10</b>	<b>Financial Capability</b>	
<b>100%</b>	<b>TOTAL SCORE</b>	

## **PART 4**

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### **REQUIRED SUBMITAL FORMS**

# **PART 4: REQUIRED 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.

**Required Submittal (FORM 1)**

**Illegal Immigration Reform and Enforcement Act Forms (Page 1 of 3)**

**INSTRUCTIONS TO PROPONENTS/BIDDERS:**

All Proponents/Bidders must comply with the Illegal Immigration Reform and Enforcement Act, O.G.G.A § 13-10-90, et seq. (IIREA). IIREA was formerly known as the Georgia Security and Immigration Compliance Act or GSICA. Proponents/Bidders must familiarize themselves with IIREA and are solely responsible for ensuring compliance. Proponents/Bidders must not rely on these instructions for that purpose. They are offered only as a convenience to assist Proponents/Bidders in complying with the requirements of the City's procurement process and the terms of this RFP.

1. The attached Contractor Affidavit (Form 1) must be filled out COMPLETELY and submitted with the proposal/bid prior to proposal due date.
2. The Contractor Affidavit must contain an active Federal Work Authorization Program (E-Verify) User ID Number and Date of Registration. **This is also known as the Company ID Number. Please note that the Company ID number is not a Tax ID number, social security number or formal contract number.**
3. Where the business structure of a Proponent/Bidder is such that Proponent/Bidder is required to obtain an Employer Identification Number (EIN) from the Internal Revenue Service, Proponent/Bidder 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/Bidder does not require it to obtain an EIN, each entity comprising Proponent/Bidder must submit a separate Contractor Affidavit.

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

**Example 2**, ABC, Inc. and XYZ, Inc. execute a joint venture agreement and submit a proposal/bid under the name Acme Construction, JV. If, based on the nature of the JV agreement, Acme Construction, JV is not required to obtain an Employer Identification Number from the IRS. The Proposal/Bid submitted by Acme Construction, 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 duly notarized.
6. All Contractor Affidavits must be submitted with proposal/bid package.
7. Subcontractor and sub-subcontractor affidavits are not required at the time of proposal/bid submission, but will be required at contract execution or in accordance with the timelines set forth in IIREA.

Rev. 07/19/17

**Required Submittal (FORM 1)**

**Illegal Immigration Reform and Enforcement Act Forms (Page 2 of 3)**

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

By executing this 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 though the contract period and the undersigned contractor for the 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:

\_\_\_\_\_ (Also known as eVerify Company ID)  
Federal Work Authorization User Identification Number (Not Tax ID or SS Number)

\_\_\_\_\_  
Date of Authorization (This is the date the Company ID was issued by the Federal eVerify system)

\_\_\_\_\_  
Name of Contractor (Legal name of Contractor, not an abbreviated version)

**FC-10451, Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility**

Name of Project

City of Atlanta  
Name of Public Employer

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

Executed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_ 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:  
\_\_\_\_\_

**Required Submittal (FORM 1)**

**Illegal Immigration Reform and Enforcement Act Forms (Page 3 of 3)**

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

By executing this 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 (Also known as eVerify Company ID)  
(Not Tax ID or SS Number)

\_\_\_\_\_  
Date of Authorization (This is the date the Company ID was issued by the Federal eVerify system)

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

Name of Project: **FC-10451, Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility**

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: \_\_\_\_\_

Rev. 07/19/17

**Required Submittal (FORM 2)**  
**Contractor Disclosure and Declaration Form (Page 1 of 8)**

***DEFINITIONS FOR THE PURPOSE OF THIS DISCLOSURE AND DECLARATION FORM***

<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 or Vendor”</b>	Any person or entity having a contract with the City of Atlanta ("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 or Offeror”</b> (the terms are interchangeably used on this Form)	Any individual or entity that submits a Bid/Proposal in response to a solicitation.  If the Respondent is an individual, then that individual must complete and sign this Contractor Disclosure and Declaration Form where indicated. 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 and Declaration Form where indicated. If the Respondent is an entity, then an authorized representative of that entity must complete and sign this Contractor Disclosure and Declaration Form where indicated. <b>If the Respondent is a newly formed entity (formed within the last three years), then an authorized representative of that entity must complete and sign this Contractor Disclosure and Declaration Form where indicated, and each of the members or owners of the entity must also complete and sign separate Contractor Disclosure and Declaration Form where indicated.</b>

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

**A. Basic Information:**

1. Name of Individual/Entity responding to this solicitation:
2. Name of the authorized representative for the responding Entity:

**B. Individual/Entity Information:**

1. Principal Office Address:
2. Telephone and Facsimile Numbers:
3. E-Mail Address:
4. Name and title of Contact Person for the Individual/Entity:
5. Is the Individual/Entity authorized to transact business in the State of Georgia?

**YES (Attach documentation evidencing authority to transact business in the State of Georgia, not limited to Georgia Secretary of State documentation.)**

**NO**

**Required Submittal (FORM 2)**

**Contractor Disclosure and Declaration Form (Page 2 of 8)**

**C. Questionnaire**

If you answer "YES" to any of the following questions, you must provide on a separate page the details necessary to explain the nature and circumstances of each action, event, matter, relationship or practice involved, including but not limited to: names of persons or entities involved, status and/or outcome of each instance. Further, if the matter involves a criminal charge, litigation of any type, or other court or administrative charge or proceeding, then the name of the court or tribunal and the file or reference number must be provided. Any information must be provided on a separate page, attached to this form and submitted with your Bid.

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.

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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? If the answer to this question is "NO", then please proceed to question number 4.

YES	NO
<input type="checkbox"/>	<input type="checkbox"/>

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
<input type="checkbox"/>	<input type="checkbox"/>

4. Has the Respondent been charged with a criminal offense within the last ten (10) years?

YES	NO
<input type="checkbox"/>	<input type="checkbox"/>

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
<input type="checkbox"/>	<input type="checkbox"/>

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

(a) Whether Respondent, or Affiliate currently or previously associated with Respondent, has ever filed a petition in bankruptcy, taken any actions with respect to insolvency, reorganization, receivership, moratorium or assignment for the benefit of creditors, or otherwise sought relief from creditors?

YES	NO
<input type="checkbox"/>	<input type="checkbox"/>

(b) Whether Respondent was subject of any order, judgment or decree not subsequently reversed, suspended or vacated by any court permanently enjoining Respondent from engaging in any type of business practice?

YES	NO
<input type="checkbox"/>	<input type="checkbox"/>

(c) Whether Respondent was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to Respondent which directly arose from activities conducted by Respondent.

YES	NO
<input type="checkbox"/>	<input type="checkbox"/>



**Required Submittal (FORM 2)**  
**Contractor Disclosure and Declaration Form (Page 3 of 8)**

- |   |                          |                          |
|---|--------------------------|--------------------------|
| 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:  | YES                      | NO                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| (a) directly or indirectly, had a business relationship with the City?  | YES                      | NO                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| (b) directly or indirectly, received revenues from the City?  | YES                      | NO                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| (c) directly or indirectly, received revenues from conducting business on City property or pursuant to any contract with the City?  | YES                      | NO                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| 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                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| 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                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| 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                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| 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                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| 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                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| 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 Atlanta City Code Section 94-133, mother, father, sister, brother, and natural or adopted children of an official or employee. | YES                      | NO                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| (b) Financial relationships: Respondent must disclose any interest held with a City employee or official, or family members of a City employee or official, which may yield, directly or indirectly, a monetary or other material benefit to the Respondent or the Respondent's family members. Please describe:  | YES                      | NO                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |

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**Required Submittal (FORM 2)**  
**Contractor Disclosure and Declaration Form (Page 4 of 8)**

**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 Bidders 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 is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an 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.”

**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 Bids/Proposals will not be discussed with other respondents during the selection process. Respondent should be aware, however, that all Bids 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 Bid/Proposal. However, the respondent may be required to submit such required information before further consideration.

**Equal Employment Opportunity (EEO) Provision.** All bidders or proponents 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:

**Required Submittal (FORM 2)**  
**Contractor Disclosure and Declaration Form (Page 5 of 8)**

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.

**Required Submittal (FORM 2)**  
**Contractor Disclosure and Declaration Form (Page 6 of 8)**

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; and

(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 Bid 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 Bid 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.

**Required Submittal (FORM 2)**  
**Contractor Disclosure and Declaration Form (Page 7 of 8)**

**Declaration**

Under penalty of perjury, I declare that I have examined this Contractor Disclosure and Declaration 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.

*Sign here if you are an individual:*

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

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

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

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

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

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

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

**Required Submittal (FORM 2)**  
**Contractor Disclosure Affidavit (Page 8 of 8)**

FOR INTERNAL USE ONLY

**Project Name/Number:** FC-10451, Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility

**Proponent:** \_\_\_\_\_

This is to acknowledge that this Contractor Disclosure Affidavit has been reviewed and appropriate actions have been taken in accordance with City of Atlanta Procurement Code Section 2-1214 and Department of Procurement procedures.

\_\_\_\_\_  
Print Name of Procurement Professional

\_\_\_\_\_  
Print Title of Procurement Professional

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
Print Name of Chief Procurement Officer

\_\_\_\_\_  
Signature of Chief Procurement Officer

\_\_\_\_\_  
Date

## **Required Submittal (FORM 3)**

### **Proponent Financial Disclosure (Page 1 of 5)**

**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 Proposal 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.

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.

**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 2 of 5)**

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



**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 3 of 5)**

**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/Proposal.
  - (a) Financial statements for the three (3) most recent consecutive fiscal years, audited by a Certified Public Accountant (“CPA”), including:
    - (i) Income Statement;
    - (ii) Balance Sheet; and
    - (iii) Statement of Cash Flows.
  - (b) Financial statements for the three (3) most recent consecutive fiscal years, either reviewed or compiled by a Certified Public Accountant (“CPA”), including:
    - (i) Income Statement;
    - (ii) Balance Sheet; and
    - (iii) Satisfactory proof of Proponent’s ability to obtain a Performance Bond for the amount described in Appendix B, if applicable.
  - (c) Unaudited, self-prepared financial statements for the three (3) most recent consecutive fiscal years, including:
    - (i) Income Statement;
    - (ii) Balance Sheet;
    - (iii) Satisfactory proof of Proponent’s ability to obtain a Performance Bond for the amount described in Appendix B, if applicable;
    - (iv) Two (2) banks or other institutional lenders’ references; and
    - (v) Dunn and Bradstreet report for the last two (2) years.

**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 4 of 5)**

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

	<b><u>Year: 2015</u></b> (Thousands)	<b><u>Year: 2016</u></b> (Thousands)	<b><u>Year: 2017</u></b> (Thousands)
Current Assets	\$.....	\$.....	\$.....
Current Liabilities	\$.....	\$.....	\$.....
Property & Equip.	\$.....	\$.....	\$.....
Working Capital	\$.....	\$.....	\$.....
Sales/ Revenue	\$.....	\$.....	\$.....
Total Assets	\$.....	\$.....	\$.....
Total Liabilities	\$.....	\$.....	\$.....
Interest Charges	\$.....	\$.....	\$.....
Net Income	\$.....	\$.....	\$.....
Net-Worth	\$.....	\$.....	\$.....

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

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

**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 5 of 5)**

**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.

*Sign here if you are an individual:*

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

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

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

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:*

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 \_\_\_\_\_, 20 \_\_\_\_.

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

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

**Form 4.1**

**Certification of Insurance Ability**

**Instructions:** Offerors must submit a completed copy of this form executed by their insurance agent/broker. Failure to submit a completed form will result in the Offeror being deemed non-responsive.

I \_\_\_\_\_ [insert agent/broker name], on behalf of \_\_\_\_\_ [insert agency name] hereby represent each of the following to the City of Atlanta, a municipal corporation of the State of Georgia ("City") on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ (insert date):

- (a) Agent/Broker is licensed by the Insurance and Safety Fire Commissioner of the State of Georgia to transact insurance business in the State of Georgia;
- (b) Agent/Broker has reviewed the Agreement attached to the solicitation for Project Number FC-10451, Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility and its Appendix B; and
- (c) Agent/Broker confirms that as of the date written above, \_\_\_\_\_ ("Offeror") may be qualified to procure the following insurance coverage(s) for this project in accordance with the terms set forth in Appendix B attached to the agreement. The information provided by Agent/Broker in this section (c) is not a certificate of insurance or insurance opinion letter as defined in O.C.G.A. 33-24-19.1 and does not guarantee insurance eligibility.

**Check the Applicable Coverage(s) as defined in Appendix B**

- General Liability
- Workers Compensation
- Commercial Auto Liability
- Umbrella/Excess Liability
- Other \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By executing this certification, agent/broker represents that all of the information provided by agent/broker is true and accurate as of the date set forth above.

**Agent/Broker Signature** \_\_\_\_\_

**Print name** \_\_\_\_\_

**Agent/Broker License #** \_\_\_\_\_

**Required Submittal (FORM 4.2)**

**Certification of Bonding Ability Instructions:**

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

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

- (a) Surety is licensed by the Insurance and Safety Fire Commissioner of the State of Georgia to transact surety business in the State of Georgia;
- (b) Surety has reviewed the Agreement attached to the solicitation for Project Number FC-10451, Moores Mill Road Multimodal Roadway extension and Transit Layover Facility (“**Project**”) and its corresponding **Appendix B for Insurance and Bonding Requirements**;
- (c) Surety certifies that if, as of the date written above, \_\_\_\_\_ (“**Proponent**”) was selected as the successful Proponent for the Project, Surety would provide bonding to Proponent for this Project in accordance with the corresponding **Appendix B for Insurance and Bonding Requirements**; and
- (d) **Surety only**: The Surety states that Proponent’s uncommitted bonding capacity (not taking into account this Project) is approximately \$ \_\_\_\_\_ (U.S.). Surety’s statement set forth in this Section (d) does not represent a limitation of the bonding capacity of Proponent or that Proponent will have the bonding capacity noted above at the time of contract execution for this Project.

**PLEASE NOTE: If this Form 4.2 is executed by an Attorney-in-Fact, then Surety must attach a copy of a duly executed Power-of-Attorney evidencing such authority in addition to correctly completing this Form 4.2. If Proponent is unable to provide City with bonds that comply with the terms of the corresponding Appendix for Insurance Requirements within ten (10) days of receiving notice of intent to award the Project from the City, the City may, in its sole discretion, retain Proponent’s security submitted with its offer and/or disqualify Proponent from further consideration for the award of the Agreement.**

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

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

\_\_\_\_\_

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

\_\_\_\_\_  
Corporate Secretary/Assistant Secretary

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

(Seal)

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

**Required Submittal (FORM 5)**

**Acknowledgment of Addenda**

Proponents should sign below and return this form with their Proposal(s) to the Department of Procurement, 55 Trinity Avenue, City Hall South, Suite 1900, Atlanta, Georgia 30303, as acknowledgment of receipt of certain Addenda.

This is to acknowledge receipt of the following **Addenda** for **FC-10451, Moores Mill Road Multimodal Roadway extension and Transit Layover Facility**

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

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

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: \_\_\_\_\_

**Required Submittal (FORM 6)**

**Proponent Contact Directory<sup>1</sup>**

NAME	POSITION/TITLE	MAILING ADDRESS	OFFICE PHONE	CELL PHONE	EMAIL ADDRESS AND FAX NUMBER

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<sup>1</sup> The purpose of the Proponent Contact Directory is to provide the City with a centralized, easily identified source of important contacts and other information regarding each of the business entities constituting a Proponent. This Proponent 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 Proponent's team:

1. At least two (2) individuals, one primary the other(s) secondary, authorized to represent the firm for purposes of this RFP; and
2. Proponent Service Provider Key Personnel (as appropriate) listed in the Services Agreement included in this RFP at Part 5.

**Required Submittal (FORM 7)**

**Reference List**

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

Reference provided for: \_\_\_\_\_

Reference:           Name  
                          Address  
                          City, State, Zip  
                          Phone  
                          Fax

Project Title:

Contact Person:       \_\_\_\_\_

Direct Telephone:    \_\_\_\_\_

Email Address:        \_\_\_\_\_

Date(s) of Project:   \_\_\_\_\_

Description of Services:

Total Amount of Contract Including Change Orders:

Proponent's Role and Responsibilities:

Current Completion Status:

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



**Required Submittal “Unless a Proponent Elects to Submit an Alternative Form of Payment”**  
**(FORM 8)**

**Proposal Bond (Page 1 of 2)**

KNOW ALL MEN BY THESE PRESENTS, THAT WE \_\_\_\_\_

hereinafter called the PRINCIPAL, and \_\_\_\_\_

hereinafter called the SURETY, a corporation chartered and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact Surety business in the State of Georgia, are held and firmly bound unto the City of Atlanta, Georgia (**OBLIGEE**), in the penal sum of either: [i] \_\_\_\_\_ Dollars and Cents (\$\_\_\_\_\_); or [ii] 5% of PRINCIPAL’S Proposal amount for **PROJECT NUMBER FC-10451, Moores Mill Road Multimodal Roadway extension and Transit Layover Facility**, good and lawful money of the United States of America, to be paid upon demand of the OBLIGEE, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators and assigns, jointly and severally and firmly by these presents.

WHEREAS the PRINCIPAL has submitted to the OBLIGEE, for **PROJECT NUMBER FC-10451, Moores Mill Road Multimodal Roadway extension and Transit Layover Facility**, a Proposal;

WHEREAS the PRINCIPAL desires to file this Bond in accordance with law, in lieu of a certified Proponent’s check otherwise required to accompany this Proposal;

NOW THEREFORE: The conditions of this obligation are such that if the Proposal be accepted, the PRINCIPAL shall within ten (10) calendar days after receipt of written notification from the CITY of the award of the Contract execute a Contract in accordance with the Proposal and upon the terms, conditions and prices set forth therein, in the form and manner required by the City of Atlanta, Georgia, and execute sufficient and satisfactory Performance and Payment Bonds payable to the OBLIGEE, each in the amount of one hundred percent (100%) of the total Contract price in form and with security satisfactory to said OBLIGEE, then this obligation to be void; otherwise, to be and remain in full force and virtue in law; and the SURETY shall upon failure of the PRINCIPAL to comply with any or all of the foregoing requirements within the time specified above immediately pay to the OBLIGEE, upon demand the amount hereof in good and lawful money of the United States of America, not as a penalty but as liquidated damages.

In the event suit is brought upon this Bond by the OBLIGEE and judgment is recovered, the SURETY shall pay all costs incurred by the OBLIGEE in such suit, including attorney’s fees to be fixed by the Court.

**PLEASE NOTE: If this Form 8 is executed by an Attorney-in-Fact, then Surety must attach a copy of a duly executed Power-of-Attorney evidencing such authority in addition to correctly completing this Form 8.**

**Required Submittal "Unless a Proponent Elects to Submit an Alternative Form of Payment"**  
**(FORM 8)**

**Proposal Bond (Page 2 of 2)**

This Proposal Bond is for the Penal Sum of:

[i] \_\_\_\_\_ Dollars and Cents

(\$ \_\_\_\_\_), being in the amount of 5% of the CONTRACT Sum; or  
[ii] 5% of PRINCIPAL'S Proposal amount for **PROJECT NUMBER FC-10451, Moores Mill Road Multimodal Roadway extension and Transit Layover Facility**. The money payable on this Bond shall be paid to the OBLIGEE, for the failure of the Proponent to execute a CONTRACT within ten (10) days after receipt of the Contract form and at the same time furnish a Payment Bond and Performance Bond.

IN TESTIMONY THEREOF, the PRINCIPAL and SURETY have caused these presents to be duly signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

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

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

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

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

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

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

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

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

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

\_\_\_\_\_  
**Notary Public (Seal)**

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

**SURETY:**

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

Attorney-in-Fact: \_\_\_\_\_

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

## **Submittal (FORM 9)**

### **Submittal Checklist**

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

Submit one (1) Original Proposal, signed and dated, and nine (9) complete copies of the Original Proposal including all required attachments.

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

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

Item Number	<b>Proposal Submittal Check Sheet</b>	<b>Check</b> <input type="checkbox"/>
1	<b>Volume I – Informational Proposal:</b> <ul style="list-style-type: none"> <li>• Executive Summary</li> <li>• Organizational Structure</li> <li>• Resumes of Key Personnel</li> <li>• Overall Experience, Qualification and Performance on Previous Similar Projects</li> <li>• Management Plan</li> </ul>	
2	<b>Volume II - Office of Contract Compliance (Appendix A Required Submittals Forms 1-5 )</b>	
3	<b>Volume II – All Required Procurement Documents (if any of the required submittal documents are not submitted or incomplete within your Proposal submittal package, your firm may be deemed non-responsive).</b>  <u>Required Submittals include but are not limited to:</u> <ul style="list-style-type: none"> <li>• Form 1; Illegal Immigration Reform and Enforcement Act</li> <li>• Form 2; Contractor Disclosure Form</li> <li>• Form 3; Proponent Financial Disclosure</li> <li>• Form 4.1; Certification of Insurance Ability</li> <li>• Form 4.2; Certification of Bonding Ability – (N/A)</li> <li>• Form 5; Acknowledgement of Addenda</li> <li>• Form 6; Proponent Contact Directory</li> <li>• Form 7; Reference List</li> <li>• Form 8; Proposal Bond - N/A</li> <li>• Form 9; Submittal Checklist</li> <li>• Authority to Transact Business in the State of Georgia</li> <li>• Exhibit F; Required Federal Provisions</li> <li>• Exhibit H; City of Atlanta Diversity Inclusion Policy</li> </ul>	
3A	<b>Separate Sealed Envelope</b> <ul style="list-style-type: none"> <li>• <b>Cost Proposal – (N/A)</b></li> </ul>	
4	<b>Proponent’s Official Company Name:</b> <b>Company Physical Address:</b>	
5	<b>President/Vice President/Owner Name:</b> <b>Title:</b> _____ <b>Office</b> <b>Telephone Number:</b> _____ <b>Direct Cell Telephone Number:</b> _____ <b>Email Address:</b> _____	
6	<b>Primary Point-of-Contact Concerning RFP:</b> _____ <b>Title:</b> _____ <b>Office</b> <b>Telephone Number:</b> _____ <b>Direct Cell</b> <b>Telephone Number:</b> _____ <b>Email Address:</b> _____	

## **PART 5**

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# **DRAFT PROFESSIONAL SERVICES AGREEMENT**

**PROFESSIONAL SERVICES AGREEMENT; CONTRACT NO. FC-10451**

This Professional Services Agreement (“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>Contract Name:</b> <b>Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility</b>	<b>Contract No. FC-10451</b>
<b>Consultant</b>	<b>City of Atlanta</b>
<b>Name:</b>	<b>Using Agency:</b>
<b>Address:</b>	<b>Address:</b> <b>City of Atlanta</b> <b>55 Trinity Avenue, SW</b> <b>Atlanta GA 30303</b>
<b>Phone:</b>	<b>Phone:</b>
<b>Fax:</b>	<b>Fax:</b>
<b>Authorized Representative:</b>	<b>Authorized Representative:</b>

**1. Background.**

1.1 City desires to obtain from Consultant the services (“Services”) described on **Exhibit A** attached.

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

**2. Term.**

2.1 Initial Term. The initial term of this Agreement will be three ( 3 ) years. This Agreement shall commence on the Effective Date and end \_\_\_\_\_ ( ) years later. The initial term of the Agreement and any renewal term(s) are collectively referred to as the “Term”.

2.2 Renewal Terms. City shall have the right in its sole discretion to renew this Agreement for Zero ( 0 ) additional year terms according to the following procedure:

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

2.2.2 If such legislation is enacted, within fifteen (15) days of such enactment, 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 Agreement is deemed its agreement to continue to provide Services during any renewal Term.

### **3. Interpretation.**

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

3.2 If there is a conflict between any of the Contract Documents, precedence shall be given in the following order:<sup>1</sup>

1. Agreement
2. Exhibit A – Services and Additional Compensation Terms
3. Exhibit B - Definitions
4. Exhibit D - City Security Policies (not applicable)
5. Exhibit E - Dispute Resolution Procedures
6. Appendix A - Office of Contract Compliance Requirements (not applicable)
7. Appendix B - Insurance and Bonding Requirements
8. Additional Contract Documents<sup>2</sup>

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

### **5. Services.**

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

5.2 **Resources.** Unless otherwise expressly provided in this Agreement, all equipment, software, Facilities and Consultant Personnel required for the proper performance of Services shall be furnished by and be under the control of Consultant. Consultant shall be

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<sup>1</sup> For purposes of this provision, authorized changes to an item listed in the order of precedence pursuant to a Change Document take precedence over the particular item changed.

<sup>2</sup> For purposes of this provision, authorized changes to an item listed in the order of precedence pursuant to a Change Document take precedence over the particular item changed.

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 Agreement, whether such changes involve an increase in the Maximum Payment Amount or not. Changes in the Services or other aspects of this Agreement shall be made by written document (“Change Document” or “Unilateral Change Document”).<sup>3</sup> All changes shall be implemented pursuant to this subsection (the “Change Document Procedures”) and any Applicable Law.

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

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

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

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

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

5.3.3 City may propose a change in the Services or other aspects of this Agreement by delivering written notice to 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 Agreement.

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<sup>3</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.).



5.3.5 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 Agreement, including, but not limited to, changes that it contends do not involve an increase to the 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 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.

5.3.7 Consultant acknowledges that this Agreement and any changes to it by amendment, modification, change order or other similar document may have required or may require the legislative authorization of the City's Council and approval of the Mayor. Under Georgia law, 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 the 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 the 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.

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 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.

6.2 Consultant Authorized Representative. Consultant designates the Consultant Authorized Representative named on page 1 of this 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 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 Contract. 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 Contract of any Consultant Personnel is not in the best interests of City, Consultant shall remove such Consultant Personnel from City's Contract. 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 Contract any Consultant Personnel who has engaged in willful misconduct or has committed a material breach of this Agreement immediately after Consultant becomes aware of such misconduct or breach.

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

6.6 Key Consultant Personnel and Key Subcontractors.

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

(a)\_\_\_\_\_;

(b) \_\_\_\_\_; and

(c)\_\_\_\_\_.

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

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

6.6.3 Consultant shall not transfer, reassign or replace any Consultant Key Personnel or Key Subcontractor, 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 Agreement without prior written approval from City.

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 Agreement. City shall make a written determination as to whether a conflict of interest actually exists and the actions to be taken to resolve the conflict of interest.

6.8 Commercial Activities. Neither 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 Agreement (the "City Authorized Representative") who shall: (a) serve as primary interface and the single-point of communication for the provision of Services; (b) have day-to-day responsibility to address issues relating to this Agreement; and (c) to the extent provided under the Code, have the authority to execute any additional documents or changes on behalf of City.

7.2 City's Right to Review and Reject. Any 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 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 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 for Consultant's provision of the Services. Consultant Personnel hourly rates, reimbursable expenses and other compensable items under this Agreement are set forth on **Exhibit A**.

8.2 Invoices. Consultant shall prepare and submit to City invoices for payment of all Charges in accordance with **Exhibit A**. Each invoice shall be in such detail and in such format as City may reasonably require. To the extent not set forth on **Exhibit A**, 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 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 Payment. City shall endeavor to pay all undisputed Charges within thirty (30) days of the date of the receipt by City of a properly rendered and delivered invoice. Notwithstanding the forgoing, unless otherwise provided on **Exhibit A**, all undisputed Charges on an invoice properly rendered and delivered shall be payable within forty-five (45) days of the date of receipt by City.

8.5 Disputed Charges. If City in good faith disputes any portion of an invoice, City may withhold such disputed amount and notify 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.

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

8.7 Payment of Other Persons. Prior to the issuance of final payment from City, Consultant shall certify to City in writing, in a form satisfactory to City, that all subcontractors, materialmen, suppliers and similar firms or persons engaged by Consultant in connection with this 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, 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 affect on its business or its ability to perform its obligations under this Agreement. Consultant has all necessary power and authority to enter into and perform its obligations under

this Agreement, and the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary actions on its part. This Agreement constitutes a legal, valid and binding obligation of 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 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 Contract Documents.

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. Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for Consultant to solicit or secure this Agreement; and that it has not paid or agreed to pay any person, company, association, corporation, individual or firm, other than a bona fide employee working for 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 this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

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 subcontractors will perform the Services in compliance with all Applicable Laws

10.2 City's Equal Business Opportunity Program. Consultant shall comply with and the following during the Term of this Agreement:

10.2.1 Consultant agrees to comply with all provisions of Part 2, Chapter 2, Article X, Division 11, including Section 2-1414 of the Code of Ordinances, City of Atlanta, and to warrant the following:

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 City setting forth the provisions of the non-discrimination clause.

b) The Consultant shall, in all solicitation or advertisement for employees, placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for the 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 have a collective bargaining agreement or other contract or understanding a notice advising the labor union or worker's representative of the Consultant commitments under the Equal Employment Opportunity Program of the City 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 the normal business hours by the contracting agency and the Contract Compliance Officer for the purpose of investigation so as to ascertain compliance with the program.

e) The Consultant shall take such reasonable action with respect to any Sub-Consultant as the City may direct, as a means of enforcing the provisions of paragraphs (a) through (h) herein, including penalties and sanctions for non-compliance; provided, however, that in the event the Consultant becomes involved in or is threatened with litigation as maybe 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 interest of the United States.

f) The Consultant and its Sub-Consultants, 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 of the City. Compliance reports filed at such time directed shall contain information as to employment practices, policies, programs and statistics of the Consultant and its Sub-Consultants.

g) The Consultant shall include the provisions of paragraphs (a) through (h) of this Equal Employment Opportunity Clause in every subcontract or purchase order which materially affects the Project so that such provisions will be binding upon each such Sub-Consultant or vendor.

h) A finding, as hereinafter provided, that a refusal by the Consultant or sub-Consultant 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 public contract until it is determined that the Consultant or Sub-Consultant is in compliance with the provisions of the Agreement.

(2) Refusal of all future bids for any public contract with the City or any of its departments or divisions until such time as the Consultant or Sub-Consultant demonstrates that there has been established and there shall be carried out all of the provisions of the program as provided in this article.

(3) Cancellation of the public Agreement.

(4) In a case in which there is substantial or material violation, or the threat of substantial or material violation, of the compliance procedure therein set forth or as may be provided for by this Agreement, and appropriate proceeding may be brought to enforce these provisions, including the enjoining of Consultant, Sub-Consultant, or other organizations, individuals or groups who prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.

10.2.2 During the performance of this Agreement, Consultant agrees to comply with Part 2, Chapter 2, Article X, Division 12, including Sections 2-1441 through 2-1460 of the Code of Ordinances of the City of Atlanta, the Equal Business Opportunity (“**EBO**”) Program and to warrant the following:

The Consultant agrees to make good faith efforts to meet the goals for this Agreement by making available opportunities for Minority Business Enterprises (“**MBE**”), African American Business Enterprises (“**AABE**”), Hispanic Business Enterprises (“**HBE**”), Asian Business Enterprises (“**ABE**”) and Native American Business Enterprises (“**NABE**”) and Female Business Enterprises (“**FBE**”) for utilization in the work set forth within this Agreement and shall take the following action as part of their good faith efforts:

- a) Notification to MBE and FBE that the Consultant has subcontracting opportunities available and maintenance of records of the MBE and FBE responses.
- b) Maintenance by the Consultant of a file of the names and addresses of each MBE and FBE contracted and action taken with respect to each such contract.
- c) Dissemination of the Consultant EBO policy externally by informing and discussing it with all management and technical assistance sources; by advertising in news media and by notifying and discussing it with Sub-Consultant and Supplier.
- d) Specific and continuing written and oral recruitment efforts directed at MBE and FBE Consultant organizations, MBE and FBE assistance organizations.
- e) Sub-divisions for the contract economically feasible segments as practical to allow the greatest opportunity for participation by M/FBEs.
- f) Increasing where possible the number of aggregate purchase items so as to eliminate the requirement of front-end purchases material for as many M/ FBE Sub-Consultants as possible.
- g) Adoption of the EBO Plan submitted in its response to the Invitation for Bids or Requests for Proposals obligations under this Agreement, as approved by the Office of Contract Compliance.
- h) Submission of monthly reports on the forms and to the extent required by the Director of the Office of Contract Compliance, to be due on the 5th day of each month following the award of the Work set forth in this agreement.
- i) The Consultant further agree that breach of the EBO provisions contained herein shall subject them to any or all of the following penalties:
  - 1) Withholding of ten percent (10%) of all future payments under the involved eligible project until it is determined that the Consultant is in compliance.
  - 2) Withholding of all future payments under the involved project until it is determined that the Consultant is in compliance.
  - 3) Refusal of all future bids or offers for any eligible project with the City of Atlanta or any of its department or divisions until such time as the Consultant demonstrates that there has been established and there shall be carried out all of the EBO provisions contained herein.
  - 4) Cancellation of the eligible project.

10.3 Georgia Immigration Compliance. The Georgia Security and Immigration Compliance Act of 2006 pursuant to O.C.G.A. § 13-10-91 and Georgia Department of Labor



Rule 300-10-1-02 is effective as of July 1, 2007, and applies to contracts for services which are physically performed with a public entity. The Consultant is required to submit the attached Georgia Security and Immigration Compliance Act of 2006 Required Consultant Submittal, the Consultant Affidavit and the Sub-Consultant Affidavits as attached and incorporated herein by reference. Consultant's failure to comply with this requirement shall constitute a material default in the contract, which may result in termination of this Original Agreement.

10.4 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 Agreement.

## **11. Confidential Information.**

11.1 General. Each Party agrees to preserve as strictly confidential all Confidential Information of the other Party for two (2) years following the expiration or termination of this Agreement; provided, however, that each Party's obligations for the other Party's Confidential Information that constitutes trade secrets pursuant to Applicable Laws will continue for so long as such Confidential Information continues to constitute a trade secret under Applicable Law. Any Confidential Information that may be deemed Sensitive Security Information by the Department of Homeland Security or any other similar Confidential Information related to security will be considered trade secrets. Upon request by City, 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 Agreement.

11.2 Disclosure of Confidential Information or Information Other Party Deems to be Confidential Information. Each Party will be entitled to disclose any Confidential Information if compelled to do so pursuant to: (i) a subpoena; (ii) judicial or administrative order; or (iii) any other requirement imposed upon it by Applicable Law. Prior to making such a disclosure, to the extent allowed pursuant to Applicable Law, each Party shall provide the other with thirty six (36) hours prior notice by facsimile of its intent to disclose, describing the content of the information to be disclosed and providing a copy of the pleading, instrument, document, communication or other written item compelling disclosure or, if not in writing, a detailed description of the nature of the communication compelling disclosure with the name, address, phone number and facsimile number of the Person requesting disclosure. Should the non-disclosing Party contest the disclosure, it must: a) seek a protective order preventing such disclosure; or b) intervene in such action compelling disclosure, as appropriate. This Section shall be applicable to information that one Party deems to be Confidential Information but the other Party does not.

## **12. Work Product.**

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

12.2 If any of the Work Product is determined not to be a work made for hire, 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 derivate 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. Consultant irrevocably designates City as Consultant’s agent and attorney-in-fact to execute, deliver and file, if necessary, any documents necessary to give effect to the provisions of this Section and to take all actions necessary, in Consultant’s name, with the same force and effect as if performed by Consultant.

## **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 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 Agreement; and (d) any other matters reasonably requested by City. Consultant shall provide full cooperation to the 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 Agreement; (b) the date that all pending matters relating to this Agreement (e.g., disputes) are closed or resolved by the Parties; or (c) the date such retention is no longer required to meet City's records retention policy or any record retention policy imposed by Applicable Law, if more stringent than City's policy, 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 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) to the extent caused by or resulting from the negligence, reckless, or intentionally wrongful conduct of consultant or subConsultant or other persons employed by or utilized by Consultant or any subconsultant in the performant or nonperformance of services under this Agreement, inclusive of

(a) 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;

(b) 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

(c) 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.** To the extent permitted by State law, 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 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 OR FORM OF SUCH DAMAGES, HOWSOEVER CHARACTERIZED IN ANY JURISDICTION), ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE, AND EVEN IF

FORESEEABLE OR IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

15.2 Exceptions to Limitations. The limitations set forth in the immediate **subsection** shall not apply to: (a) personal injury, wrongful death or tangible property damage; (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 and Bonding Requirements.** Consultant shall comply with the insurance and bonding requirements set forth on **Appendix B.**

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

**18. Termination.**

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

(a) for a material breach of the Contract 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;

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

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

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

18.2 Re-procurement Costs. In addition to all other rights and remedies City may have, if this Agreement is terminated by City pursuant to the above **subsection entitled “Termination by City for Cause”**, 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 agreement awarded to

other Persons for completion. If City improperly terminates this Agreement for cause, the termination for cause will be considered a termination for convenience in accordance with the provisions of the **Section entitled “Termination by City for Convenience”**.

18.3 Termination by City for Insolvency. City may terminate this Agreement immediately by delivering written notice of such termination to 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 Agreement, City may terminate this Agreement 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 Termination for Lack of Appropriations. If, during the Term of this Agreement, legislation establishing a Maximum Payment Amount for the following year is not enacted, this Agreement will terminate in its entirety on the last day of the annual term for which a Maximum Payment Amount has been legislatively authorized.

18.6 Effect of Termination. Unless otherwise provided herein, termination of this Agreement, in whole or in part and for any reason, shall not affect: (a) any liabilities or obligations of either Party arising before such termination or out of the events causing such termination; or (b) any remedies to which a Party may be entitled under this Agreement, at law or in equity. Upon termination of this Agreement, 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 agreements existing for performance of the terminated Services, or assign those agreements, as directed by City; (iv) comply with all other reasonable requests from City regarding the terminated Services; and (v) continue to perform in accordance with all of the terms and conditions of this Agreement any portion of the Services that are not terminated.

## **19. Dispute Resolution.**

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

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

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

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 Agreement shall be in writing and sent to the respective Party at the address on page 1 of this Agreement, or, if applicable, to the City's Department of Procurement at 55 Trinity Avenue, Suite 1900, Atlanta, Georgia, 30303, and shall be deemed delivered: (a) when delivered by hand or courier or by overnight delivery with signature receipt required; (b) when sent by confirmed facsimile with a copy sent by another means specified in this Section; or (c) three (3) days after the date of mailing by United States certified mail, return receipt requested, postage prepaid. Any Party may change its address for communications by notice in accordance with this Section.

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

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

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

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

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

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

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

20.9 Independent Consultant. Consultant is an independent consultant of City and nothing in this 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 Agreement is not intended, expressly or implicitly, to confer on any other Person any rights, benefits, remedies, obligations or liabilities.

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

20.12 Entire Agreement. The Contract Documents contain the entire Agreement of the Parties relating to their subject matter and supersede all previous communications, representations or agreements, oral or written, between the Parties with respect to such subject matter. This Agreement may only be amended or modified by a writing executed by each Party's authorized representative and each such writing shall be deemed to incorporate the Contract Documents, except to the extent that City is authorized under Applicable Law to issue Unilateral Change Documents. CONSULTANT MAY NOT UNILATERALLY AMEND OR MODIFY THIS AGREEMENT BY INCLUDING PROVISIONS IN ITS INVOICES, OR OTHER BUSINESS FORMS, WHICH SHALL BE DEEMED OBJECTED TO BY CITY AND OF NO FORCE OR EFFECT.

20.13 Unauthorized Goods or Services. Consultant acknowledges that this Agreement and any changes to it by amendment, modification, change order or other similar document may have required or may require the legislative authorization of the City's Council and approval of the Mayor. Under Georgia law, 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 the 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 Gratuities and Kickbacks. 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 therefor. Additionally, it shall be unethical for any payment, gratuity or offer of employment to be made by or on behalf of a sub-Consultant under a contract to the prime Consultant or higher tier sub-Consultant or any person associated therewith as an inducement for the award of a subcontract or order.

20.15 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 sub-Consultants 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. The City shall be entitled to adjust or exclude payments or portions of payments to Consultant found by the City to have been increased because the Consultant furnished cost or pricing data was misrepresented, inaccurate, incomplete or not current as of the date it was submitted.

*[Signatures on the following page.]*

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

**City of Atlanta**

**[Consultant]**

\_\_\_\_\_  
**Mayor**

\_\_\_\_\_  
**Municipal Clerk (Seal)**

**Approved:**

\_\_\_\_\_  
**Commissioner, Department of Public Works**

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

\_\_\_\_\_  
**Chief Procurement Officer**

**Approved as to form:**

\_\_\_\_\_  
**City Attorney**

# EXHIBITS

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# **EXHIBIT A**

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## **SCOPE OF SERVICES**

ARC Project ID: AT-273

FTA Project Number: GA-2017-007-00

Funding Source: FTA & Local

Budget: \$

#### Project Purpose

The purpose of this project is to improve multimodal access, mobility, operations and safety between the Bolton/Adams Crossing neighborhood, businesses, and transit bus stops in the Marietta Boulevard area. The project includes improvements for all users - pedestrians, bicyclists, transit, and vehicles. This project includes the addition of a bus layover facility to accommodate up to three 40 foot buses with shelters, signing, and marking on the north side of Marietta Boulevard. Bulb-outs will be installed to prevent general traffic from using the bus facility as a travel lane. This transit layover facility will provide a safer environment for both transit vehicles and transit riders. As shown on the *Project Location Map*, this project also includes extending Moores Mill Road from its current terminus at Bolton Road to Adams Drive in order to provide better connectivity and access for all users in the area. The new road alignment length is 0.7 miles. The portion of the extension between Bolton Road and Marietta Boulevard will be constructed by a private party as part of an adjacent site redevelopment. That private party will construct the multimodal roadway which includes bike lanes and sidewalks along both sides of the road. The City of Atlanta, will install the pedestrian lighting and trash receptacles in this section. The City of Atlanta will construct the full multimodal roadway between Marietta Boulevard and Adams Drive, including a new traffic signal at the new intersection of Moores Mill Road and Marietta Boulevard. The new roadway extension will also connect to the existing PATH Whetstone Creek multi-use trail.

This project will improve and expand transit access. The new intersection of Moores Mill Road and Marietta Boulevard will be signalized and provide a much needed safe crossing for bicyclists and pedestrians to access transit routes and bus stops on the north side of Marietta Boulevard. All of the existing bus stops along Marietta Boulevard are on the north side of the road. The new bus layover facility on the north side of the road will accommodate up to three 40 foot buses at a time and will provide a safe and sheltered place for users to access the transit stops and transfer between buses. The layover facility will also provide a safer environment for transit vehicles as they layover at the end of their routes. Those buses currently layover in the outer through travel lane with no designated bus area. The new road will include bicycle and pedestrian facilities to safely and directly connect the Bolton/Adams Crossing neighborhood to the transit stops. MARTA operates three bus routes (Routes 1, 37 and 60) in the immediate area, as can be seen on the *Transit Nexus Map*. Currently, the bicycle and pedestrian access to the transit stops in the area is poor and the block lengths are large with limited safe crossings. The Bolton/ Adams Crossing neighborhood currently has no pedestrian or bicycle access to the transit stops. This project will provide new safe access to transit from the neighborhood and along the corridor through sidewalks, a signalized intersection with crosswalks, and bicycle sharrows.

The project is being funded under the Roadway Operations and Safety Program, a regional program defined in the Atlanta Regional Commission's PLAN 2040 to make smaller-scale improvements along existing roadways which are the most critical for cross-jurisdictional travel. With the exception of certain system wide programs with broad benefits across a defined geographic area, eligibility under this

program is limited to facilities on the Regional Strategic Transportation System (RSTS), with additional priority given to those also identified as a Regional Thoroughfare. Moores Mill Road and Bolton Road are both RSTS facilities, while sections of Marietta Boulevard in the vicinity of the project are also designated as a Level 1 Regional Thoroughfare.

### Detailed Project Description

As illustrated on the *Project Plan Layout* and the *Section Diagrams*, proposed construction improvements include:

- A bus layover facility on the north side of Marietta Boulevard. This bus layover facility will accommodate up to three 40 foot buses along the frontage of the new development just south of the new Moores Mill Road extension. Two new bus shelters and replacing the sidewalk to accommodate the bus layover facility will improve the access, safety, and experience for transit users of the three MARTA bus routes served here. The design also includes bulb-outs to prevent through traffic from using the bus layover facility as a travel lane.
- Pedestrian lighting and trash receptacle installation on the extension of Moores Mill Road from Bolton Road to Marietta Boulevard that is being constructed by a private party as shown on the *Project Location Map*. (The roadway being constructed by a private party will include 11' lanes, 5' bike lanes, and 5' sidewalks with a 2' buffer zone.)
- Extension of Adams Drive from Marietta Boulevard to Adams Drive to align with the Moores Mill Road Extension. This section will include 9.5' lanes with bicycle sharrows, 5' sidewalk on the south side of the street, and a 2' pedestrian buffer zone in the section east of the PATH Whetstone Creek multi-use trail connection. Bicycle and pedestrian connections to the PATH Whetstone Creek multi-use trail are provided.
- The existing entrance to Adams Drive at Marietta Boulevard will be closed and replaced with a landscaped area.
- A new signalized intersection at Marietta Boulevard and Moores Mill Road Extension/Adams Drive. This new intersection will include ADA ramps, upgrades, and crosswalks for bicycle and pedestrian access. The signal will include pedestrian actuation.

The Moores Mill Multi-Modal Roadway Extension & Transit Layover Facility is included in both the Atlanta Regional Transportation Plan (published by the Atlanta Regional Commission, project ID: AT-237) and the City's adopted Bolton-Moores Mill LCI plan. The project is identified as PS-NS-001 in the City's Connect Atlanta Plan. These plans serve as decision making/policy documents for area-wide growth strategies and transportation plans.

No existing overhead utilities will be buried during construction. There may be a need to reposition two existing overhead utility poles adjacent to the new bus layover facility.

### Historic Resources

No significant historic or environmental resources will be negatively impacted directly by this project. As shown on the *Environmental and Historic Resources Map*, the project does not abut any National Register Districts. It is highly unlikely there are archaeological resources within the areas of the project that will require digging based on previous land disturbance from existing roadways, commercial development, and utility lines. There are some potentially historic homes in the area of the project, however these resources would not be impacted by the construction of the new road. Directly adjacent to the project are commercial and industrial uses. Given that the project does not encroach any publicly-

owned parks, recreational areas, or wildlife/waterfowl refuges, no detailed 4(f) documentation was completed.

The area of potential effect for this project includes private property owners (tract 8 and a portion of parking from tract 5) as well as the existing right-of-way. A retaining wall will be necessary on the south side of the new Adams Drive roadway as shown in the Project Plan Layout. There is roughly an 8'-9' elevation difference between tract 5 and tract 8 (Tract 8 is the Westside Pizza Restaurant) at the back property line of tract 5. Therefore, the slope of the roadway adjacent to the building in tract 5 would extend out an additional 16'-18' using a 2:1 side slope. Without using a retaining wall, the tract 5 building would require a taking. Reducing the lane width and moving the sidewalk to the north side of the road would not be enough to keep the roadway slope off the tract 5 building. The retaining wall and proposed alignment also allows for the roadway extension to have no impact to tract 7 (emissions testing/car wash). There is no practical way to avoid impacting the parking on tract 5. Additionally, temporary construction easements will be required in order to accommodate construction.

### Public Involvement

Extensive public involvement was completed through the Bolton/Moores Mill LCI. The City of Atlanta led the process by creating a stakeholders group representative of the areas neighborhoods, property owners, business owners and public leaders. This task force was involved in a detailed and in-depth series of public meetings designed to garner support for the direction of the plan. This facilitated the creation of meaningful input because citizens gained a thorough understanding of the issues, options and consequently, the difficult choices facing them. By communicating their concerns and desires to the project team, citizens helped educate the project team staff on issues connected to the study.

Specifically, the public involvement in the Bolton/Moores Mill LCI included several stakeholder meetings, a public design workshop and a marketing strategy workshop. The public design workshop was the cornerstone of the public involvement effort. The workshop employed a hands-on approach that resulted in key elements of the plan. The key elements are the corridor master plan, the Marietta Boulevard shopping center plan, the transportation improvement plan and a green space plan. All public meetings were well attended and provided a wealth of information to the study team.

### Attachments

1. Project Location Map
2. Transit Nexus Map
3. Environmental and Historic Resources Map
4. Project Plan Layout
5. Section Diagrams
6. Photos of Area
7. Project Cost Estimate

# **EXHIBIT A.1**

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## **COST PROPOSAL**

(To be provided only if requested by the City)



# Design Project Cost Proposal

## Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility

Description	Unit	Cost
Concept Validation	LS	
Database Preparation	LS	
Public/Project Meetings	10	
Environmental Documentation	LS	
Permitting	LS	
Right of Way (Property Appraisals & Land Acquisition)	LS	
Preliminary Plans Development - All sections (Right of Way plans Incl.)	LS	
Final Plans - All Sections (incl. Right of Way Updating if required)	LS	
Bid Services (document preparation, RFI responses)	LS	
Construction Administration	LS	
Other Direct Costs	LS	
<b>Designer Total</b>		

<b>Other Services (if requested/required)</b>		
Geotechnical Investigation (Class B)	Per location	
Construction Inspection Services	LS	
<b>Note: Need to get a cost on these items incase required.</b>		

Note: The Prime Design Company will incorporate the estimated hourly billing costs of their subs.

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

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

**FC-00000, FTA Grant Number: GA-2017-007-00**

Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility

## **EXHIBIT A.2**

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### **MINIMUM QUALIFICATIONS**

## **Minimum Qualifications:**

### **Area Class Requirements and Certification**

Proponent teams must be prequalified in the indicated Area Class(es) in order to be evaluated. Teams shall submit proof of prequalification shall be submitted. All Submittals will be pre- screened to verify that the overall team has all of the required Area Class(es). Any submittal in which the Prime consultant or the overall team area class requirements are not met will be disqualified from further consideration.

While this design will not be required to follow the GDOT PDP process, the Prime Consultant or one of their sub consultant team members **MUST** be prequalified by GDOT in all of the area classes listed below:

<u>Number</u>	<u>Area Class</u>
3.02	Urban Roadway Design
3.08	Landscape Architecture
3.09	Traffic Control Systems Analysis, Design and Implementation
3.10	Utility Coordination
3.13	Bicycle and Pedestrian Facility Design
5.02	Engineering Surveying
6.01(b)	Geological and Geophysical Studies
9.01	Erosion, Sedimentation and Pollution Control Plan (ESPCP) Preparation

# **EXHIBIT B**

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## **DEFINITIONS**

## **EXHIBIT B** **DEFINITIONS**

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

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

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

“City Security Policies” means the policies set forth in **Exhibit D**.

“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 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 subcontractors hired and maintained to perform Services hereunder.

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

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

“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.

“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 C**

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### **AUTHORIZING LEGISLATION**

**(To be inserted upon Execution)**

## **EXHIBIT D**

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### **CITY SECURITY POLICIES**

**(Not Applicable)**



# **EXHIBIT E**

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## **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 Agreement.

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.

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.

If 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**

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## **REQUIRED FEDERAL PROVISIONS**

**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

**COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS/ REGULATIONS.**

In the performance of the Work, the Contractor agrees that, at no additional cost to Department of Public Works, it will comply with any and all laws, statutes, ordinances, rules, and regulations of any government, whether national, state, or local, and of any agency of such government, including Department of Public Works, which relates to or in any manner affects the performance of the Work.

**NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES**

(1) The Contractor acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the City, the Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**FALSE STATEMENTS OR CLAIMS – CIVIL AND CRIMINAL FRAUD**

(1) Civil Fraud. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq., and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R. Part 31, apply to its actions pertaining to this Contract. Upon execution of the underlying Contract, the Contractor certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make, or causes to be made, pertaining the underlying Contract or the FTA assigned project for which this Contract work is being performed.

In addition to other penalties that may apply, the Contractor furthers acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Contractor to the extent the Federal Government deems appropriate.

(2) Criminal Fraud. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the City under 49 U.S.C. Chapter 53 or any other Federal law, the Federal Government reserves the right to impose the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001, or other applicable Federal law on the Contractor to the extent the Federal Government deems appropriate.

**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**SUSPENSION AND DEBARMENT**

(1) This Contract is a covered transaction for purposes of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)," 2 C.F.R. Part 180. As such, the Contractor agrees to provide a debarment and suspension certification containing information about the debarment and suspension status of itself and its principals. The Contractor agrees that it shall refrain from entering into any contract of any amount to a debarred or suspended subcontractor, and to obtain a similar certification from any subcontractors, seeking a contract exceeding \$25,000.

Contractor agrees to and assures its subcontractors, and other participant at any tier of the underlying Contract will review the "Excluded Parties Listing System" at <http://epls.gov/> before entering into any agreement or other arrangement in connection with the underlying Contract.

(2) The certification is a material representation of fact upon which reliance will be placed when this transaction is entered into. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the City may pursue available remedies, including suspension and/or debarment.

The Contractor shall provide immediate written notice to the City if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(3) The Contractor also agrees to include these requirements in each subcontract exceeding \$25,000 financed in whole or in part with Federal assistance provided by FTA.

**ENERGY CONSERVATION**

The Contractor agrees to comply with applicable mandatory energy efficiency standards and policies of applicable state energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 et seq., except to the extent that the Federal Government determines otherwise in writing. To the extent applicable, the Contractor agrees to perform an energy assessment for any maintenance facility constructed, reconstructed, or

**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

**LOBBYING**

The Contractor agrees to comply with the requirements of 31 U.S.C. § 1352(a), the Byrd Anti Lobbying Amendment, which prohibits the use of Federal assistance to pay the costs of influencing any officer or employee of a Federal agency, Member of Congress, officer of Congress or employee of a member of Congress, in connection with making or extending the Grant Agreement or Cooperative Agreement. The Contractor shall file the certification required by U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. 8 1352. Each tier certifies to the tier above that it will not and has not used Federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any public agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U. S. C. 1352.

Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contracts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U. S. C. 1352. Such disclosures are forwarded from tier to tier up to the CITY OF ATLANTA.

**ACCESS TO THIRD PARTY CONTRACT RECORDS**

(1) The Contractor agrees to maintain all book, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract. In the event of litigation of settlement of claims arising from the performance of this Contract, the Contractor agrees to maintain such records until the City, the FTA Administrator, the Comptroller General, or any of the duly authorized representatives have disposed of all such litigation, appeals, claims or exceptions related thereto.

During the course of this Contract and for three (3) years thereafter from the date of transmission of the final expenditure report, the Contractor agrees to maintain intact and readily accessible all data, documents, reports, records, sub-agreements, leases, third party contracts, and supporting materials related to the this Contract as the Federal Government may require, and;

(2) the Contractor agrees to permit the U.S. Secretary of Transportation, the Comptroller General of the United States, and, to the extent appropriate, the State, or their authorized representatives, upon their request to inspect all work, materials, payrolls, and other data, and to audit the books, records, and

**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

accounts of the Contractor pertaining to this Contract, as required by 49 U.S.C. § 5325(g).

**CHANGES TO FEDERAL REQUIREMENTS**

The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the City and FTA, as they may be amended or promulgated from time to time during the term of this Contract. The Contractor's failure to so comply shall constitute a material breach of this Contract.

**INCORPORATION OF FTA TERMS**

All contractual provisions required by U. S. DOT or FTA, as set forth in FTA Circular 4220.1F, "Third Party Contracting Guidance," November 1, 2008, and any later revision thereto, are hereby incorporated by reference.

Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any the City's requests, which would cause the City to be in violation of the FTA terms and conditions.

**CIVIL RIGHTS**

The following requirements apply to the underlying Contract:

(1) Nondiscrimination - In accordance with Title **V1** of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., U.S. DOT regulations, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant because of race, color, creed, national origin, sex, age, or disability.

In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing regulations FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying Contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor

**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

(U.S. DOL.) regulations "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41C.F.R. Material 60 el seq., (which implement Executive Order- No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the Contract.

The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees treated during employment, without regard to their race, color, creed, national origin, sex, or age. 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. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with Section 1 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (US. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may Issue.

(c) Disabilities - In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Contractor agrees that it will comply with the requirements U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Pan 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include the requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.



## **Exhibit F**

### **REQUIRED FEDERAL PROVISIONS**

#### **FLY AMERICA**

To the extent applicable, the Contractor agrees to comply with Section 5 of the international Air Transportation Fair- Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143, which provide that recipients and sub-recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S-Government-financed international air travel and transportation of their personal effects and, to the extent such service is available, unless travel by Foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S, flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Further, the Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

Clean Air Act (42 U.S.C. §§ 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 – 1387), as amended—As this Contract exceeds \$150,000, the Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 – 1387). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

#### **DISADVANTAGED BUSINESS ENTERPRISE**

In addition to DBE Requirements of this Contract (See Appendix A), the following Federal Disadvantage Business Enterprises requirements apply:

1. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 31.5%. A separate contract goal of 31.5% DBE participation has been established for this procurement.
2. The contractor 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 this DOT-assisted contract. 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 deems appropriate. Each subcontract the contractor signs with a sub

**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

contractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

3. Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following concurrent with and accompanying an initial submittals:
  1. The names and addresses of DBE firms that will participate in this contract;
  2. A description of the work each DBE will perform;
  3. The dollar amount of the participation of each DBE firm participating;
  4. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
  5. Written 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 do so. Offerors must present the information required above as a matter of responsiveness with initial proposals (see 49 CFR 26.53(3)).
  
4. The contractor is required to pay its sub-contractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the City of Atlanta. In addition, the contractor is required to return any retainage payments to those sub-contractors within 30 days after incremental acceptance of the sub contractor's work by the City of Atlanta and contractor's receipt of the partial retainage payment related to the sub contractor's work.

**EQUAL EMPLOYMENT OPPORTUNITY**

Except as otherwise provided under 41 C.F.R. part 60, this Contract shall meet the definition of "federally assisted construction contract" in 41 C.F.R. part 60-1.3 and shall include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order No. 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. part 1964-1965 Comp., p. 339), as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

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, sexual orientation, gender identity, 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 identity, 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 consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

**(3)** The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant.

This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

**(4)** 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.

**(5)** 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.

**(6)** 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,

**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

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.

**(7)** 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.

**(8)** The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted

## **Exhibit F**

### **REQUIRED FEDERAL PROVISIONS**

construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

#### **PATENT RIGHTS.**

- (1) General. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Contract, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Contractor, in conjunction with the Authority, agrees to take actions necessary to provide immediate notice and detailed report to the party at a higher tier until FTA is ultimately notified.
- (2) Federal Rights. Absent a determination in writing to the contrary by the Federal Government, the Contractor, through the Authority, agrees to transmit to take the necessary actions to provide, through FTA, those rights in any invention, improvement, or discovery due the Federal Government, as specified in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401 (implementing 35 U.S.C. §§ 200 *et seq.*), irrespective of the status of the Contractor (*i.e.*, a large business, small business, State government, State instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, individual, *etc.*).
- (3) Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or part with Federal assistance provided by FTA.

#### **RIGHTS IN DATA AND COPYRIGHTS REQUIREMENTS**

All copyrights and similar rights to all reports, plans, specifications, drawings, designs, maps, and other documents of any kind, produced wholly or in part pursuant to the Agreement, and to the contents thereof, shall belong to the Authority. If any invention, improvement, process, design, or discovery that is or may be patented under the laws of the United States or of any other country is conceived or first actually reduced to practice under this Agreement or in the course of its performance, all rights to patent such invention, improvement, process, design, or discovery shall belong to the Authority. The Consultant agrees to assign to the

**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

Authority any such copyrights or patent rights to which the Consultant may otherwise be entitled; to execute all documents and to do all other acts that may be necessary or convenient to secure such rights to the Authority; and to secure like undertakings and obligations to the Authority from all employees and sub-contractors and their employees who are engaged in performing work in accordance with the Agreement.

**CLEAN WATER.**

(1) The Contractor agrees to comply with all applicable Federal laws and regulations in accordance with applicable Federal directives implementing the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**TERMINATION FOR CONVENIENCE.**

In the event that the Authority determines that this Contract is no longer in its best interest, including but not limited to the withdrawal or otherwise unavailability of financial assistance expected to be provided by the FTA (U.S. DOT), the Authority may terminate this Contract, in whole or in part, without any liability whatsoever upon the Authority, by giving written notice of its election to do so. If the Contract is terminated by the Authority, Contractor will be only paid for the Contract price for goods, equipment and supplies delivered and accepted on or before the effective date of the termination.

**TERMINATION FOR DEFAULT.**

The events described below shall be events of default, upon the occurrence of any of which the Authority may, at its option, and subject to any notice and period of cure that is provided in the case of any such event, terminate this Contract.

The Authority's right to terminate as provided in this Article shall be in addition to all other rights and remedies, at law, in equity, or otherwise, to which the Authority may be entitled, arising out of such events of default. If upon the occurrence of any event of default the Authority shall waive the same, or shall elect not to exercise its right to terminate this Contract, such waiver or election shall not be or be construed as a waiver of any other default or an election not to terminate because of any other default, nor to be a waiver of or election not to terminate because of a like default on another occasion. The events of default subject to this Article are as follows:

(a) If the Contractor shall fail to perform any service requested by the Authority in a timely and satisfactory manner, and such default shall continue for twenty (20) days after the Authority shall have given written notice thereof.

**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

(b) If (i) the Contractor shall become insolvent, or shall make an assignment for the benefit of creditors, or a transfer in fraud of creditors, or (ii) the Contractor shall file a petition under any section of the National Bankruptcy Act, or under any similar law or statute of the United States or any State thereof, or there shall be filed against the Contractor a petition in bankruptcy or insolvency or any similar proceeding which shall not be dismissed within ninety (90) days, or the Contractor shall be judged a bankrupt or insolvent in any proceeding filed against him; or (iii) a receiver or trustee shall be appointed for all or substantially all of the assets of the Contractor; the Contractor shall not be entitled to notice of these events of default.

(c) If the Contractor abandons or discontinues operations under this Contract, or becomes permanently deprived of the rights, powers, or privileges necessary to the proper conduct thereof; the Contractor shall not be entitled to notice of these events of default.

(d) If the Contractor shall fail to perform any other obligation under this Contract, and shall not cure such failure within thirty (30) days after the Authority shall have given written notice thereof.

Notices required under this Article must be in writing and delivered by hand delivery, U.S. Mail, express delivery courier, facsimile, electronic mail, or other electronic means. Notification is considered complete upon receipt.

**RESOLUTION OF DISPUTES, BREACHES OR OTHER LITIGATION.**

In event a dispute arises between the Authority and the Contractor in the performance on this Contract, the Authority's representative, as set forth the Supplementary Conditions, and the Contractor's counterpart/designated representative shall expeditiously undertake, through direct, good faith negotiations to resolve the dispute or controversy. The nature of said controversy shall be documented in writing by the party initiating the negotiations.

In the event the dispute cannot be resolved by those individuals within fifteen (15) days after negotiation are undertaken, the dispute shall be referred to the Authority's General Manager and the Contractor's counterpart.

If the dispute cannot be resolved by those parties with fifteen (15) days of the dispute being brought to their attention, either party may pursue any other remedy available under Georgia law.

Unless otherwise directed by the non-performing party, each party shall continue performance of their respective obligations under this Contract while matters in dispute are being resolved.

**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

**CLEAN AIR.**

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7571q. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**ADA Access**

The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the Contractor agrees to comply with applicable implementing Federal regulations any later amendments thereto, and agrees to follow applicable Federal directives except to the extent FTA approves otherwise in writing.



**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

**CERTIFICATION OF PRIMARY PARTICIPANT**  
**REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY**  
**MATTERS**

The Primary Participant (potential consultant for a major third party contract),  
\_\_\_\_\_, certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or Local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
  
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or Local) terminated for cause or default.

(If the primary participant is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT, (POTENTIAL CONSULTANT FOR A MAJOR THIRD PARTY CONTRACT) \_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

\_\_\_\_\_

Date \_\_\_\_\_

**Exhibit F**  
**REQUIRED FEDERAL PROVISIONS**

**CERTIFICATION OF LOWER-TIER PARTICIPANT**  
**REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND**  
**VOLUNTARY EXCLUSION**

The Lower-Tier Participant (potential subconsultant under a major third party contract), \_\_\_\_\_, certifies by submission of this proposal that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(If the Lower-Tier participant is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.)

THE LOWER-TIER PARTICIPANT (POTENTIAL SUBCONSULTANT UNDER A MAJOR THIRD PARTY CONTRACT) \_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

\_\_\_\_\_

Date \_\_\_\_\_

# APPENDICES

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# **APPENDIX A**

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## **OFFICE OF CONTRACT COMPLIANCE REQUIREMENTS**



## CITY OF ATLANTA

SUITE 5100

68 MITCHELL STREET

ATLANTA, GA 30303

(404) 330-6010 Fax: (404) 658-7359

Internet Home Page: [www.atlantaga.gov](http://www.atlantaga.gov)

Keisha Lance Bottoms  
Mayor

OFFICE OF CONTRACT COMPLIANCE

Larry Scott

Director

[lscott@atlantaga.gov](mailto:lscott@atlantaga.gov)

May 21, 2018

**RE: Project No.: FC-10451 – Moores Mill Rd. Multimodal Roadway Extension & Transit Layover Facility**

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/offeror is to make good faith efforts to meet the goal. The bidder/offeror 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/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. In determining whether a bidder/offeror is responsive to the DBE goals, OCC will consider whether the information submitted by that bidder/offeror is complete, accurate and adequately documents the bidder's/offeror'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-10451 – Moores Mill Rd. Multimodal Roadway Extension & Transit Layover Facility**

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 **Moores Mill Rd. Multimodal Roadway Extension & Transit Layover Facility** contract.

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

**541330 Engineering Services**

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 Project Specific Disadvantaged Business Enterprise (DBE) Goal is: 16%**

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. Subcontractor Contact Form. It is required that bidders list and submit information on all subcontractors they solicit for quotes, all subcontractors who contact them with regard to the project, and all subcontractors they have discussions with regarding the project. Failure to provide complete information on this form will result in your bid being declared non-responsive. For your convenience, fillable versions of the Appendix A documents are available on the OCC webpage should you require additional pages.
4. 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.
5. Certification. As of March 1, 2004, the City no longer does DBE Certification. DBE Certifications are now handled by the GA Department of Transportation (G-DOT) and MARTA. The contact number for G-DOT is (404) 656-5267. The contact number for MARTA is (404) 656-5267.
6. 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.
7. DBE Concession Program. The DBE Concession Program is governed by the provisions of "49 CFR Parts 23 and 26".
8. 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-10451 – Moores Mill Rd. Multimodal Roadway Extension & Transit Layover Facility**

#### **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 Disadvantaged Business Enterprise goals, the Equal Employment Opportunity goals, and the First Source Jobs Employment goals where applicable. Furthermore, the undersigned acknowledges receipt of and agrees to adhere to the Federal Title VI assurances included in this appendix.

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: \_\_\_\_\_

## GDOT Title VI Assurances

The *City of Atlanta* (hereinafter referred to as the “Recipient”), HEREBY AGREES THAT as a condition to receiving any federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d—42 USC 2000d—4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This Assurance is required by Subsection 21.7(a)(1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances to its Federal Aid Highway Program.

1. That the Recipient agrees that each “program” and each “facility” as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with Federal Aid Highway and in adapted form in all proposals for negotiated agreements:

“The Georgia Department of Transportation in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d—42 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.”

3. That the Recipient shall insert the clauses of Appendix A(US-DOT) of this Assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B(US-DOT) of this Assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient received federal financial assistance in the form, or for the acquisition of real property, or an interest in real property, the Assurance shall extend rights to space on, over, or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal Aid Highway Program; and (b) for the construction or use of, or access to space on, over, or under, real property acquired or improved under the Federal Aid Highway Program.
8. That this Assurance obligates the Recipient for the period during which federal financial assistance is extended to the program, or is in the form of personal property, or real property or interest therein or structures or improvements thereon, in which case the Assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program, as are found by the State Secretary of Transportation or the official to whom s/he delegates specific authority, to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial endorsement with regard to any matter arising under the Act, the Regulations, and this Assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the Recipient by the Department of Transportation under the Federal Aid Highway Program and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Aid Highway Program. The person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the Recipient.

\_\_\_\_\_  
(Date)

by \_\_\_\_\_  
(Signature of Authorized Official)

Attachments: Appendices A(US-DOT), B(US-DOT) and C(US-DOT).



## APPENDIX A (US-DOT)

The text below, in its entirety, is in all contracts entered into by GDOT. All of the text including the final section, entitled "Incorporation of Provisions," should be included in any contract entered into by any GDOT contractor.

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

### 1. Compliance with Regulations

The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter referred to as DOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

### 2. Nondiscrimination

The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

### 3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiations made by the Contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.

### 4. Information and Reports

The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the (*Recipient*) or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the (*Recipient*), or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

### 5. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the (*Recipient*) shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the Contractor under the contract until the Contractor complies; and/or
- b. Cancellation, termination, or suspension of the contract, in whole or in part.

## 6. Incorporation of Provisions

The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The Contractor shall take such action with respect to any subcontractor or procurement as the *(Recipient)* or the Federal Highway Administration 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 supplier as a result of such direction, the Contractor may request the *(Recipient)* enter into such litigation to protect the interests of the state and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

## APPENDIX B (US-DOT)

**The following clauses shall be included in any and all deeds affecting or recording the transfer of real property, structures, or improvements thereon, or interest therein from the United States.**

### **Granting Clause**

NOW, THEREFORE, the Georgia Department of Transportation (GDOT)—as authorized by law, and upon the condition that the state of Georgia will accept title to the lands and maintain the project constructed thereon, in accordance with and in compliance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways; the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation; and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252: 42 USC 2000d to 2000d-4)—does hereby remise, release, quitclaim, and convey unto the state of Georgia all the right, title, and interest of the GDOT in and to said land described in Exhibit A attached hereto and made a part thereof.

### **Habendum Clause**

TO HAVE AND TO HOLD said lands and interests therein unto the state of Georgia, and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the state of Georgia, its successors, and assigns.

The state of Georgia, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree, as a covenant running with the land for itself, its successors and assigns, that (1) no person shall, on the grounds of race, color, sex, disability, national origin, age, or religion, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed\*, (2) that the state of Georgia shall use the lands, and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination of Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the agency shall have a right to reenter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in, and become the absolute property of, GDOT and its assigns as such interest existed prior to this instruction.<sup>1</sup>

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<sup>1</sup> Reverter Clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of Civil Rights Act of 1964.

## APPENDIX C(US-DOT)

**The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by GDOT pursuant to the provisions of Assurance 7.**

The LESSEE, for himself or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease, for a purpose for which a GDOT program or activity is extended, or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation — Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

**The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by GDOT pursuant to the provisions of Assurance 7.**

The LESSEE, for himself or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant, and agree as a covenant running with the land, that (1) no person, on the grounds of race, color, sex, or national origin, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and furnishing of services thereon, no person on the grounds of race, color, sex, and national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation — Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to terminate the [license, lease, permit, etc.] and to reenter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

\*[Include in deeds subject to a reverter clause]

That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to reenter said land and facilities there-on, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the STATE and its assigns.

\* Reverter Clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of Civil Rights Act of 1964.

**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	Ethnicity/Gender of DBE 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	Ethnicity/Gender of DBE 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:** \_\_\_\_\_ **FC#:** \_\_\_\_\_ **Project Name:** \_\_\_\_\_

**Name of Diversity Plan Contact (Printed):** \_\_\_\_\_ **Date:** \_\_\_\_\_

**SUBCONTRACTOR/SUPPLIER UTILIZATION PLAN**

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

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

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

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

**Name of Diversity Plan Contact (Printed):** \_\_\_\_\_ **Date:** \_\_\_\_\_

(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 contractor;
  - (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;
  - (vii) [OCC] ha[s] determined that the listed DBE[/ACDBE] subcontractor is not a responsible contractor;
  - (vi) The listed DBE[/ACDBE] subcontractor voluntarily withdraws from the project and provides to [OCC] written notice of its withdrawal;
  - (vii) 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: \_\_\_\_\_

## **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@AtlMBDC.com](mailto:cwilnot@AtlMBDC.com)

### **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: [clyons@atlanta.k12.ga.us](mailto:clyons@atlanta.k12.ga.us)

### **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)

### **Dekalb County**

Terry Phillips  
Contract Compliance Officer  
1300 Commerce Drive  
Room 202  
Decatur, GA 30030  
Phone: 404-371-2737  
Email: [tgphilli@co.dekalb.ga.us](mailto:tgphilli@co.dekalb.ga.us)

### **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)

### **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@doas.ga.gov](mailto:gsbc@doas.ga.gov)

### **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)

### **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: [greende@co.gwinnett.ga.us](mailto:greende@co.gwinnett.ga.us)

## FIRST SOURCE JOBS PROGRAM POLICY STATEMENT

The Atlanta Workforce Development agency has determined that the First Source Jobs Program **is not applicable** for **FC-10451 – Moores Mill Rd. Multimodal Roadway Extension & Transit Layover Facility**. It is the policy of the City of Atlanta to provide job opportunities to the residents of the City of Atlanta whenever possible. The First Source Jobs Program only applies to eligible procurements that include **Construction** components. Every contract with the City of Atlanta creates a potential pool of new employment opportunities. All prime contractor proponents for procurements that include a construction component are **required** to work with the First Source Jobs Program to fill at least 50% of all new entry-level jobs, which arise from this project with residents of the City of Atlanta. For more specific information about the First Source Jobs Program contact:

**Audrey Lawrence**  
**First Source Jobs Program**  
**WorkSource Development Agency**  
**818 Pollard Boulevard**  
**Atlanta, Georgia 30315**  
**(404) 546-3051**

## **APPENDIX B**

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### **INSURANCE AND BONDING REQUIREMENTS**

**Appendix B**  
**INSURANCE & BONDING REQUIREMENTS**

FC-10451 Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility

A. Preamble

The following requirements apply to all work under the Agreement. Compliance is required by Service Provider. **To the extent permitted by applicable law, the City of Atlanta (“City”) reserves the right to adjust or waive any insurance or bonding requirements contained in this Appendix B and applicable to the Agreement.** 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 Appendix B, or required by applicable law, have been complied with and evidence of such compliance satisfactory to City as to form and content has been filed with City.**

At the time Service Provider submits to City its executed Agreement, Service Provider must satisfy all insurance and bonding requirements required by this Appendix B and applicable by law, and provide the required written documentation to City evidencing such compliance. In the event that Service Provider 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 Service Provider.

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

2. Project Number & Name

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

3. Minimum Financial Security Requirements

All companies providing insurance required by this Appendix B must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-Casualty. Upon request, the Service Provider 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 surety company authorized by law to do business in the State of Georgia pursuant to a current certificate of authority to transact surety business by the Georgia Commissioner of Insurance or be listed in the latest issue of U.S. Department of Treasury Circular 570 of the Federal Register.

If the issuing company does not meet these minimum requirements, or for any other reason is or becomes unsatisfactory to City, City will notify Service Provider in writing. Service Provider 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.

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

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

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

#### 5. Notices of Cancellation & Renewal

Service Provider 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 Appendix B (including any attachments thereto) that Service Provider 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.

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

#### 6. Agent Acting as Authorized Representative

Each and every agent acting as Authorized Representative on behalf of a company affording coverage under this Agreement shall warrant when signing the Acord Certificate of Insurance that specific authorization has been granted by the Companies for the Agent to bind coverage as required and to execute the Acord Certificates of Insurance as evidence of such coverage.

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

7. Certificate Holder

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

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

City shall be covered as an Additional Insured, as its interest may appear, under any and all insurance required pursuant to this Agreement, and such insurance shall be primary and non-contributory with respect to the Additional Insured. However, this requirement does not apply to Workers' Compensation or Professional Liability Insurance. Additional insured status extending to ongoing and completed operations per CG 20 26 07 04 or their carrier equivalent shall be provided. Additional insured status shall be maintained following project completion equivalent to the statute of repose in the State of Georgia. If the vendor chooses to self-insure any of the insurance requirements then the additional insured endorsement will be waived.

9. Mandatory Sub-Contractor/Consultant Compliance

Service Provider must require and ensure that all of Service Provider'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 Service Provider.

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 Service Provider must clearly indicate a waiver of subrogation in favor of the City of Atlanta. If the vendor chooses to self-insure any of the insurance requirements, then the waiver of subrogation requirement will be waived.

B. Workers' Compensation and Employer's Liability Insurance

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

Workers' Compensation . . . . . **Statutory**  
Employer's Liability:  
Bodily Injury by Accident/Disease **\$500,000 each accident**  
Bodily Injury by Accident/Disease **\$500,000 each employee**  
Bodily Injury by Accident/Disease **\$500,000 policy limit**

C. Commercial General Liability Insurance

Service Provider 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 of Atlanta)
- Waiver of Subrogation in favor of the City of Atlanta

D. Commercial Automobile Liability Insurance

Service Provider must procure and maintain Automobile Liability Insurance in an amount not less than **\$500,000** 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 Service Provider does not own any automobiles in the corporate name, non-owned vehicle coverage will apply and must be endorsed on either Service Provider's personal automobile policy or the Commercial General Liability policy required under this Appendix B.

E. Professional Liability Insurance

Service provider shall procure and maintain Professional Liability Insurance in an amount of **\$1,000,000 per occurrence and annual aggregate**. The policy will fully address the Contractor's/Consultant's professional services associated with the scope of work contained in this contract.

- Three Year Extended Reporting Provision

**End of Document**

## **APPENDIX C**

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### **Moores Mill Road Multimodal Roadway Extension and Transit Layover Facility Concept**





## **PART 6**

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# **IIREA PREVIEW PARTICIPATION PROGRAM**

**DEPARTMENT OF PROCUREMENT**

**IIREA PREVIEW PARTICIPATION FORM INSTRUCTIONS**

1. Potential offerors may submit the Contractor Affidavit to the Department of Procurement (“DOP”) not less than ten (10) days prior to the due date for responses to a Solicitation. Submission of the Contractor Affidavit after that date will **NOT** extend the time for submitting Bids/Proposals (“offers”) and DOP is not required to review Contractor Affidavits submitted less than ten (10) days prior to the due date for responses to a Solicitation.
  
2. All Contractor Affidavits must be submitted via email or delivery to the following address:  
**Email: [iireapreview@atlantaga.gov](mailto:iireapreview@atlantaga.gov)**  
**City of Atlanta**  
**Department of Procurement**  
**ATTN: IIREA Preview**  
**55 Trinity Avenue, SW, Suite 1900**  
**Atlanta, GA 30303**
  
3. DOP will review the timely submitted Contractor Affidavit and provide a response not less than five (5) days prior to the due date for responses to the solicitation.
  
4. Potential offerors that are deemed non-compliant must submit a compliant contractor Affidavit on the due date for responses to the solicitation of offers in order to be qualified for evaluation.
  
5. If a due date for the Contractor Affidavit or the acknowledgement and determination falls on a weekend or a City recognized holiday, the document shall be due on the next business day after the weekend or holiday. However, DOP shall not be required to change the due date for Proposals to accommodate a later due date for the Contractor Affidavit. In no event will the due date for the Contractor Affidavit be later than the due date for responses to the solicitation.
  
6. The determination of a potential offeror’s compliance with the State’s immigration compliance mandates shall not automatically deem that offeror’s timely submitted offer to be responsive to any solicitation. Offerors must also be responsive to and compliant with other requirements set forth in the solicitation of offers, as well as all applicable laws. Untimely offers from compliant potential offerors shall not be eligible for award of the solicited contract.
  
7. Potential offerors that submit an incomplete or incorrect Contractor Affidavit with their offer or fail to submit a compliant Contractor Affidavit after a determination of non-compliance, will not be qualified for evaluation and their timely submission of an offer may not be considered for the award of the solicited contract

**DEPARTMENT OF PROCUREMENT**  
**IIREA PREVIEW PARTICIPATION FORM**

Date of Request	
Name of Requestor (company name)	
Mailing Address	
Contact Person	
Phone	
Email	

**Project Name and Number:** \_\_\_\_\_

**Bid/Proposal Due Date:**  
\_\_\_\_\_

**Confirm E-Verify affidavit completed and attached:**  Yes  No