

# **Request for Proposals**

**FC-9976, Citizens Informational Digital Kiosks**



**Atlanta, Georgia**

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Department of Public Works**

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## CITY OF ATLANTA

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September 15, 2017

### ATTENTION INTERESTED PROPONENTS:

Your firm is hereby invited to submit to the City of Atlanta (the “City”), Department of Procurement (the “DOP”), a proposal for **FC-9976, Citizens Informational Digital Kiosks**. The City is soliciting proposals from qualified firms to provide the following service:

The City of Atlanta (the “City”), Department of Procurement (“DOP”) on behalf of the Department of Public Works (“DPW”) is soliciting Request for Proposals from qualified Contractors to perform all planning, administrative, permitting, salvaging, execution, removal and grading/erosion requirements necessary to safely demolish specified structure(s) and conduct asbestos abatement and environmental remediation services. All service requests will be performed at the City’s discretion on an as-needed basis, at various City locations.

A **Pre-Proposal Conference** will be held on **Thursday, September 27th, at 11:00 a.m.**, at the DOP’s Conference Room in Suite 1900. The purpose of the Pre-Proposal Conference is to provide proponents with detailed information regarding the project and to address questions and concerns. There will be representatives from the APD, the Office of Contract Compliance, the Ethics Office, Risk Management and AWDA available at the conference to discuss this project and to answer any questions. Proponents are urged to attend the Pre-Proposal Conference.

Proponents will be allowed to ask questions during the Pre-Proposal Conference. However, please note that oral answers to questions during the Pre-Proposal Conference on **September 27th, 2017**, are not authoritative. The last date to submit questions in writing is **September 29th, 2017**; by noon EST.

Your response to this Request for Proposals must be submitted to designated staff of the Department of Procurement at 55 Trinity Avenue, S.W., City Hall South, Suite 1900, Atlanta, Georgia 30303, **no later than 2:00 p.m., Wednesday, October 4th, 2017**.

**\*\*ABSOLUTELY NO PROPOSALS WILL BE ACCEPTED AFTER 2:00 P.M.\*\***

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

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**This RFP is being made available by electronic means. If accepted by such means, then the Proponent acknowledges and accepts full responsibility for monitoring the DOP website for any addenda to the RFP. In the event of a conflict between a version of the Proposal in the Proponent's possession and the version submitted to the DOP, the version submitted to the DOP shall govern.**

**Proponents may submit their Contractor Affidavit Forms for review via the City's IIREA Preview Participation Program, to [iireapreview@atlantaga.gov](mailto:iireapreview@atlantaga.gov) not less than ten (10) days prior to the Proposals due date of October 4th, 2017. The IIREA Preview Participation Form is set forth in Part 6, included in the Request for Proposal.**

**You are required to email and confirm receipt of your business name, contact person, address, phone number, fax number and the project number to Mr. Carlos Scott, Contracting Officer, at [cscott@atlantaga.gov](mailto:cscott@atlantaga.gov), to be placed on the Plan Holders List. Failure to do so will prevent you from receiving any addenda that are issued and may deem you non-responsive.**

**The proposal document may also be obtained from the Department of Procurement, Plan Room, City Hall South, Suite 1900, 55 Trinity Avenue, S.W., Atlanta, Georgia, 30303, at a cost of \$50.00 per package, beginning on Friday, September 15th. All purchased solicitation documents include a solicitation package; scope of work booklet and full size drawings.**

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

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

Sincerely,



Susan M. Garrett  
Interim Chief Procurement Officer

SMG/cs

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

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

1. **Services Being Procured:** This Request for Proposals (“RFP”) from qualified proponents (“Proponent” or “Proponents”) by the City of Atlanta (“City”), on behalf of the Department of Public Works (“DPW”) and the Department of Atlanta Information Management (“DAIM”), seeks to procure the following services (“Services”): **perform all planning, administrative, permitting, salvaging, execution, removal and grading/erosion requirements necessary to safely demolish specified structure(s) and conduct asbestos abatement and environmental remediation services.** A more detailed Scope of Services sought in this procurement is set forth in Exhibit A–Services attached to the Services Agreement (“Services Agreement”); **Contract No. FC-9976, Citizens Informational Digital Kiosks** included in this RFP.<sup>1</sup>
2. **Method of Source Selection:** This procurement is being conducted in accordance with all applicable provisions of the City of Atlanta’s Code of Ordinances, including its Procurement and Real Estate Code and the particular method of source selection for the services sought in this RFP is Code Section 2-1188; Competitive sealed proposals. By submitting a Proposal concerning this procurement, a Proponent acknowledges that it is familiar with all laws applicable to this procurement, including, but not limited to, the City’s Code of Ordinances and Charter, which laws are incorporated into this RFP by reference.
3. **Authority to Transact Business in Georgia:** Each Proponent shall submit with its Proposal, documentation that demonstrates it is duly authorized to conduct business in the State of Georgia.
4. **Minimum Qualifications:**
  - At least 5 years’ experience in building and deploying similar physical structures to those being proposed
  - At least 2 years’ experience in developing and deploying a content management system similar to what is being proposed
  - At least 5 years’ experience in local advertising sales in a major Metro a (5+ years) local advertising sales team (cannot be a start-up department), unless there is a per annum cash guarantee for the term of the contract with possible upside
  - Proven capital reserves to insure the fulfillment of the contract for the full term of the contract regardless of the level of actual advertising sales
  - Provide proof of patents/patent pending and TM’s
  - 48 hour (business) fix to tech or operational issues
  - Liability insurance to meet city requirements
  - Cyber security insurance-focus on credit card use/data theft
  - Pay for and report UX/UI testing
  - Sales arm must agree to sell advertising on the city of Atlanta Green in Right of way retail kiosks (10-20) as part of this package

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

- Provide details on the process the company has for working with city clients on Content Development/Sourcing/Deployment
- Provide recommendations on how much of the content will be generated by software automation and which portions will be manually imputed
- Provide the company's standard operating procedures for a content management system partnership with a municipality
- Provide its fabrication/installation /maintenance of system protocols
- Provide a description of contract management procedures for municipal contracts.

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., EST** (as verified by the Bureau of National Standards) on **Wednesday, October 4, 2017**. Any Proposal received after this time will not be considered and will be rejected and returned.

7. **Pre-Proposal Conference:** Each Proponent is highly encouraged attend the Pre-Proposal Conference scheduled for **Wednesday, September 27, 2017, at 11:00 A.M.**, at the DOP Conference Room in 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 Jobsite(s) shall not relieve any Proponent from responsibility from evaluating properly the difficulty or cost of successfully performing the Services.

8. **Site Visit: (Not Applicable)**

The City will host a Site Visit on \_\_\_\_\_, located at City Hall Annex, 5th Floor, 55 Trinity Avenue, Atlanta, GA, 30303. Each Proponent is responsible for securing travel to the facility. The central location for meeting the designated staff member will be in the lobby of the facility between \_\_\_\_\_. Please be prompt so not to delay the site visit beyond the allotted time.

9. **Proposal Bond: (Not Applicable)**

9.1. **Each Proponent is required to furnish a Proposal Bond in the amount of five percent (5%) of the total Cost Proposal amount.** At the option of the Proponent, the Proposal Guaranty may also be cash, a certified check payable to the order of City or a Proposal Bond in a form acceptable to the City. A surety executing a Proposal Bond must meet the requirements set forth in Appendix B-Insurance and Bonding Requirements attached to the Services Agreement included in this RFP.

9.2. Each Proponent agrees that, if it is awarded the Agreement and fails to execute it and provide 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.

10. **Procurement Questions; Prohibited Contacts:** Any questions regarding this RFP should be submitted in writing to the City's contact person, **Mr. Carlos Scott, Contracting Officer**, Department of Procurement, 55 Trinity Avenue, SW, Suite 1900, Atlanta, Georgia 30303-0307, by e-mail [cscott@atlantaga.gov](mailto:cscott@atlantaga.gov), on or before **Monday, September 29th, 2017 at 12:00 p.m. EST**. Questions received after the designated period will not be considered. Any response made by the City will be provided in writing to all Proponents by addendum. It is the responsibility of each Proponent to obtain a copy of any Addendum issued for this procurement by monitoring the City's website at [www.atlantaga.gov](http://www.atlantaga.gov) 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.
11. **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.
12. **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.
13. **Applicable City OCC Programs:** The City's OCC Programs applicable to this procurement are set forth in Appendix A; Office of Contract Compliance Submittals, attached to the Services Agreement included in this RFP. By submitting a Proposal in response to this procurement, each Proponent agrees to comply with such applicable OCC Programs.
14. **Evaluation of Financial Information:** The City's evaluation of financial information concerning a Proponent and its consideration of such information in determining whether a Proponent is responsive and responsible may involve a review of several items of information required to be included in a Proposal. City will review the information included in Form 2; Company Financial Statements 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 5; Proof of Insurance and Bonding Capacity. A Proponent must include with that form (a) notarized letter(s) from its proposed insurer(s) and surety(ies) indicating that the financial capacity of the Proponent is such that the insurer(s)/surety(ies) is/are willing to issue insurance and Payment and Performance Bonds for the Proponent if 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.
15. **Special Rules Applicable to Evaluation of Proposals:** A Proponent may be required to submit, in writing, the addresses of any proposed subcontractors or equipment manufacturers



listed in the Proposal and to submit other material information relative to proposed subcontractors. City reserves the right to disapprove any proposed subcontractors whose technical or financial ability or resources or whose experience are deemed inadequate.

**16. Examination of Proposal Documents:**

16.1. 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.

16.2. Each Proponent shall promptly notify 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.

16.3. 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 City in an issued addendum.

16.4. 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.

**17. Cancellation of Solicitation:** This solicitation may be cancelled in accordance to the City of Atlanta Code of Ordinances.

**18. 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.

**19. Illegal Immigration Reform and Enforcement Act:** This RFP is subject to the Illegal Immigration Reform and Enforcement Act of 2011 ("Act"). Pursuant to Act, the Proponent must provide with its Proposal proof of its registration with and continuing and future participation in the E-Verify Program established by the United States Department of Homeland Security. A completed Contractor Affidavit, set forth in **Part 4; Form 1; Illegal Immigration Reform and Enforcement Act Forms**, must be submitted on the top of the Proposal at the time of submission, prior to the time for opening the Proposal. Under state law, the City cannot consider any Proposal which does not include completed forms. Where the business structure of a Proponent is such that Proponent is required to obtain an Employer Identification Number (EIN) from the Internal Revenue Service, Proponent must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Proponent itself. Where the business structure of a Proponent does not require it to obtain an EIN, each entity comprising Proponent must submit a separate Contractor Affidavit. It is not the intent of this notice to provide detailed information or legal advice concerning the Act. All Proponents intending to do business with the City are responsible for independently apprising themselves of and complying with the requirements of the Act and assessing its effect on City procurements and their participation in those

procurements. For additional information on the E-Verify program or to enroll in the program, go to: <https://e-verify.uscis.gov/enroll>. Additional information on completing and submitting the Contractor Affidavit precedes the Affidavit at **Part 4, Form 1**.

- 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 Proposals due date. The IIREA Preview Participation Form is set forth in Part 6, included in the Request for Proposal.

20. **Multiple Awards:** Upon evaluation of the Proposals, and following oral interviews/presentations (*if applicable*), negotiations may be undertaken with the Proponent(s) determined by the City to be the most responsive and responsible of the short-listed Proponents. The City reserves the option to award multiple Agreements. The purpose of the negotiations will be to arrive at final Agreements concerning the business terms of the transaction. In the event that negotiations with the most qualified Proponents fail to reach final agreement, such negotiations will be terminated. The City will then enter into negotiations with the next most qualified Proponent. This process will continue until final agreements, if possible, are realized.
21. **Georgia Open Records Act:** Information provided to the City is subject to disclosure under the Georgia Open Records Act ("GORA"). Pursuant to O.C.G.A. § 50-18-72(a)(34), "[a]n entity submitting records containing trade secrets that wishes to keep such records confidential under this paragraph shall submit and attach to the records an affidavit affirmatively declaring that specific information in the records constitute trade secrets pursuant to Article 27 of Chapter 1 of Title 10 [O.C.G.A. § 10-1-760 et seq.]."

**Part 2**  
**Contents of Proposals and Required Submittals**

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

- 1. General Contents of Proposals:** A Proponent must submit a complete Proposal in response to this RFP in the format specified in this RFP; no other format will be considered. A Proposal will consist of two (2) separate documents:

- 1.1. Informational Proposal; and
- 1.2. Minimum Guarantee (Form provided by City at Part 5; Services Agreement; Exhibit A.1-Cost Proposal). Minimum Guarantee will become part of the Services Agreement attached to this RFP, if an Agreement is awarded pursuant to this procurement.

- 2. Informational Proposals:** An Informational Proposal is comprised of 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.

- 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 a Volume I to a Proposal.

- 3.1.1.1. **Executive Summary;**
- 3.1.1.2. **Organizational Structure;**
- 3.1.1.3. **Resumes of Key Personnel;**
- 3.1.1.4. **Overall Experience, Qualifications and Performance on Previous Projects; and**
- 3.1.1.5. **Management Plan.**

- 3.1.2. **Information Provided by a Proponent on Forms Provided by the City:** This information should be included in a Volume II to a Proposal:

- 3.1.2.1. **Forms attached to this RFP at Part 4:**

- 3.1.2.1.1. Form 1; Illegal Immigration Reform and Enforcement Act Forms;
- 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
- 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; and
- 3.1.2.1.9. Form 8; Proposal Bond; and

**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.**

**3.1.2.2. Forms attached to Services Agreement attached to this RFP at Part 5**

- 3.1.2.2.1 Exhibit A.1: Cost Proposal (**This should be included in a separate sealed envelope and labeled ‘Cost Proposal’**); and
- 3.1.2.2.1. Appendix A; City’s OCC Programs; Office of Contract Compliance.

**3.2. Information Requirements Details:** The following is a more detailed summary of the requirements of certain portions of the Informational Proposal:

**3.2.1. Executive Summary (tabbed 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 fax number, 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, telephone number and fax number of one (1) contact person to whom all future correspondence and/or communications may be directed by the City concerning this procurement, if that person is different from the person executing the letter. The letter 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 a project and discuss how the team was formed and how the team will function as an integrated unit in providing services to the City;

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 role and responsibilities these firms will be assigned. Each Proponent must provide a letter from each essential subcontractor/subconsultant indicating that the firm concurs with the role and responsibility Proponent has described;

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

3.2.1.2.5. Provide a brief history of the company including the number of years in business providing the services you are outlining in your proposal;

3.2.1.2.6. Provide resumes which include qualifications, certifications, education and responsibilities of anticipated staff outlined in your proposal;

**3.2.1.3. Organizational Structure (Tabbed in Volume I).** The Proponent's Organizational Structure Section of the Proposal should introduce the proposed Proponent team by:

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

3.2.1.3.2. providing a description of how this organizational structure will facilitate managing the Services requested and how an efficient flow of information will be realized from the organizational structure.

3.2.1.3.3. providing the names of proposed candidates for each function on the chart.

3.2.1.3.4. As a quality business relationship is important, please include anything else you feel relevant. Please answer the following questions if they are applicable. If not, please indicate N/A.

1. What is the legal name of your company?
2. Please state the number of years your company has been in business.
3. Are you a subsidiary, affiliate, or franchise? If yes, what is the name of your parent company?
4. What is the headquarters location address, phone number and Web site?
5. What is the company ownership structure?
6. How many employees do you have worldwide? In North America? Locally?

7. Provide a sample certificate of insurance identifying your standard insurance coverage.
8. Provide your tax identification number.
9. Provide your Dun & Bradstreet number.
10. What kind of geographical classification applies to your company?
  - ☐ Local: (i.e., operates in only one city or state)
  - ☐ Regional: (i.e., operates in only one geographical area)
  - ☐ Multi-regional: (i.e., operates in more than one region, but not national)
  - ☐ National: (i.e., provide services across the U.S. only)
  - ☐ International: (i.e., conducts business in the U.S. and abroad)

### 3.2.2. Key Personnel/Resumes:

- 3.2.2.1.1. Identify and provide resumes for ALL of the individuals that the Team will use to fill the following proposed positions and list the number of employees associated with the position title:

3.2.2.1.1.1. Project Managers Overseeing Demolition Projects  
Project Managers Overseeing Asbestos Projects

- 3.2.2.1.2. Resumes should be organized as follows:

- 3.2.2.1.2.1. Name and Title;
- 3.2.2.1.2.2. Professional Background;
- 3.2.2.1.2.3. Current and Past Relevant Employment;
- 3.2.2.1.2.4. Education;
- 3.2.2.1.2.5. Certifications;
- 3.2.2.1.2.6. List of (3) Relevant projects, including:
  - 3.2.2.1.2.6.1. Client Name;
  - 3.2.2.1.2.6.2. project description;
  - 3.2.2.1.2.6.3. role of the individual;
  - 3.2.2.1.2.6.4. project actual or expected completion date; and

- 3.2.2.1.3. Client List/Reference Contact **(REQUIRED SUBMITTAL. A MINIMUM OF THREE (3) REFERENCES ARE REQUIRED. PLEASE REFER TO REQUIRED SUBMITTAL FORM LISTED WITHIN PART 4 OF THIS SOLICITATION DOCUMENT, TITLED FORM 7).**

- 3.2.2.1.4. 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 need to replace key team members during the course of the project, Proponent must describe its back-up personnel plan.

**3.2.2.2.Overall Experience, Qualifications and Performance on Previous Projects.**

Proponents should detail their relevant experience, qualifications, performance and capabilities for performing the services outlined in the Exhibit A: Scope of Services.

**3.2.3. Management Plan (Tabbed in Volume I).** Based on the Proponent's Organizational structure, describe how the Proponent will manage the Services, specifically addressing the following:

3.2.3.1.Proponent's approach to team leadership;

3.2.3.2.how the Proponent will:

3.2.3.2.1. ensure proper communications among pertinent project team members;

3.2.3.2.2. establish and maintain the necessary cooperative relationships;

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

3.2.3.3.identify the tools that are intended to be used to manage these project elements, and tasks;

3.2.3.4.Proponent's proposed method to:

3.2.3.4.1. Identify and resolve issues during the project duration;

3.2.3.5.Make critical decisions;

3.2.3.6.Describe your company's core capabilities and business approach;

3.2.3.7.What differentiates your organization from your competition;

3.2.3.8.How is your organization structured locally, and how does this structure support your ability to provide the service you are proposing;

3.2.3.9.Describe your start up plan for beginning the service(s) that are outlined within your proposal;

3.2.3.10. Describe your overall business objectives you are proposing in detail;

3.2.3.11. Describe your hiring process in general; including recruiting, screening and training; specify process per type of position;

3.2.3.12. Provide sample brochures and pictures of sourcing initiatives used by your agency to attract new clients;

3.2.3.13. Provide a list of expected cooperation and deliverables that you would need afforded to your firm by the City (if any), in order, for your agency to satisfy all business objectives;

3.2.3.14. Describe your safety policies and procedures; and

3.2.3.15. Describe your process for handling customer complaints, including the manner in which complaints are handled and resolved.

3.2.3.16. Describe your plan for managing salvageable material.

3.2.3.17. Equipment List for owned property.



4. **Total Cost Proposal (Firm Fixed Total Cost).** Submit one (1) stamped “Original” and seven (7) copies in a **separate envelope**).

- The COA bills on a Net 30 basis from the time of invoicing. Please ensure your firm can comply with these payment terms.

5. **Submission of Proposals:**

- 5.1. A Proposal must be submitted in sealed envelope(s) or package(s) and the outside of the envelope(s) or package(s) must clearly identify the name of the project: **FC-9976, Citizens Informational Digital Kiosks** and the name and address of the Proponent. All Proposals 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, Georgia 30303-0307

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

- 5.3. In addition to the hard copy submission, each Proponent should 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 the hard copy Proposal. Please refer to the Georgia Open Records Acts (O.C.G.A. § 50-18-72) for information not subject to public disclosure.

- 5.4. 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

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

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

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

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

- (1) Clear understanding of the goals and objectives and demonstration by offer a comprehensive plan to accomplish goals;
- (2) Qualifications and experience of all proposed team members;
- (3) Demonstration that programs, services, and product offered will meet the needs of those in the Community;
- (4) Response to ALL questions asked within Exhibit A, Scope of Services;
- (5) Responsiveness to all items noted as Required Submittals within the solicitation document;
- (6) Reference submission and satisfactory review;
- (7) Demonstration of product; and
- (8) Price.

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

A. The **responsiveness** of a Proponent is determined by the following:

1. A timely and effective delivery of all 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 the following:

1. The ability, capacity and skill of the Proponent to perform the Agreement or provide the Work required;
2. The capability of the Proponent to perform the Agreement or provide the Work promptly, or within the time specified without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the Proponent;
4. The quality of performance of previous contracts or work;
5. The previous existing compliance by the Proponent with laws and ordinances relating to the Agreement or Work;
6. The sufficiency of the financial resources and ability of the Proponent to perform Agreement or provide the Work;
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.

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

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

Item #	Required Proposal Submittal Check Sheet <sup>1</sup>	Check (√)
	<b>VOLUME I CHECKLIST (Submitted in the ordered tabbed sections)</b>	
1.	Executive Summary	
2.	Organizational Structure	
3.	Resumes of Key Personnel	
4.	Overall Experience, Qualifications and Performance on Previous Similar Projects	
5.	Management Plan	
	<b>VOLUME II CHECKLIST All documents should be ordered and tabbed in the Volume II Binder/section as follows:</b>	
1.	Form 1; Illegal Immigration Reform and Enforcement Act Forms	
2.	Form 2; Contractor Disclosure and Declaration Form	
3.	Form 3; Proponent Financial Disclosure	
4.	Form 4.1; Certification of Insurance Ability	
5.	Form 4.2; Certification of Bonding Ability	
6.	Form 5; Acknowledgment of Addenda	
7.	Form 6; Proponent Contact Directory	
8.	Form 7; Reference List	
9.	Form 8; Proposal Bond	
10.	Form 9; Submittal Checklist (Not Required)	
11.	Appendix E; Equipment List for Owned Property	
12.	Appendix A; City's OCC Programs; Office of Contract Compliance Submittals; EBO/SBE Forms 1, 2, 3 and 4 (to be completed by Proponent and submitted with Proposal) <sup>2</sup>	
	<b>COST PROPOSAL</b>	
1.	Exhibit A.1-Cost Proposal (to be completed by Proponent and submitted in a separate sealed envelope)	

<sup>1</sup> This table is included for Proponent's convenience and may be used to track the preparation and submittal of certain required information with its Proposal.

<sup>2</sup> Appendix B; Insurance and Bonding Requirements is a part of the Services Agreement but is not a form that is required to be completed by a Proponent.

## **Part 3**

### **Evaluation of Proposals**

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

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

An award shall be made to the most responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration the evaluation factors set forth in the this RFP. **Should a Proponent not submit any portions of a Required Submittal, they will be deemed non-responsive.**

<b>RELATIVE WEIGHT</b>	<b>GRADED ITEMS</b>	<b>SCORE</b>
<b>15</b>	<b>Management Plan and Technical Approach</b>	
<b>20</b>	<b>Overall Experience</b>	
<b>40</b>	<b>Cost Proposal/ Cost Structure</b>	
<b>15</b>	<b>OCC Programs</b>	
<b>10</b>	<b>Financial Capability</b>	
<b>(100%)</b>	<b>TOTAL SCORE</b>	

#### **End of Instructions to Proponents Section to Include:**

- **Part 1: Information and Instructions to Proponents**
- **Part 2; Contents of Proposals/Required Submittals**
- **Part 3; Evaluation of Proposals**

**Part 4**  
**Required Submittals Forms**

## **Required Submittal (FORM 1)**

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

#### **INSTRUCTIONS TO PROPONENTS:**

All Proponents must comply with the Illegal Immigration Reform and Enforcement Act of 2011, 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 must familiarize themselves with IIREA and are solely responsible for ensuring compliance. Proponents must not rely on these instructions for that purpose. They are offered only as a convenience to assist Proponents in complying with the requirements of the City's procurement process and the terms of this RFP.

1. The attached Contractor Affidavit must be filled out COMPLETELY and submitted with the Proposal 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.
3. Where the business structure of a Proponent is such that Proponent is required to obtain an Employer Identification Number (EIN) from the Internal Revenue Service, Proponent must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Proponent itself. Where the business structure of a Proponent does not require it to obtain an EIN, each entity comprising Proponent must submit a separate Contractor Affidavit.

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

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

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



**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 through 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)

\_\_\_\_\_  
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:

\_\_\_\_\_

Rev. 07/19/17

**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:

\_\_\_\_\_ (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 Subcontractor: \_\_\_\_\_

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

Name of Public Employer: City of Atlanta

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

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

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

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

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

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

Rev. 07/19/17

**Required Submittal (FORM 2)**  
**Contractor Disclosure and Declaration Form (Page 1 of 7)**

***DEFINITIONS FOR THE PURPOSES OF THIS DISCLOSURE AFFIDAVIT***

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

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

**A. Basic Information:**

1. Name of 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 Certificate of Authority to transact business in Georgia from Georgia Secretary of State.)**

☐ No

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

**C. Questionnaire**

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

1. Please describe the general development of the Respondent's business during the past ten (10) years, or such shorter period of time that the Respondent has been in business.
  
2. Are there any lawsuits, administrative actions or litigation to which Respondent is currently a party or has been a party (either as a plaintiff or defendant) during the past ten (10) years based upon fraud, theft, breach of contract, misrepresentation, safety, wrongful death or other similar conduct? YES NO  
☐ ☐
  
3. If "yes" to question number 2, were any of the parties to the suit a bonding company, insurance company, an owner, or otherwise? If so, attach a sheet listing all parties and indicate the type of company involved. YES NO  
☐ ☐
  
4. Has the Respondent been charged with a criminal offense within the last ten (10) years? YES NO  
☐ ☐
  
5. Has the Respondent received any citations or notices of violation from any government agency in connection with any of Respondent's work during the past ten (10) years (including OSHA violations)? Describe any citation or notices of violation which Respondent received. YES NO  
☐ ☐
  
6. Please state whether any of the following events have occurred in the last ten (10) years with respect to the Respondent. If any answer is yes, explain fully the circumstances surrounding the subject matter of the affirmative answer:
  - (a) Whether Respondent, or Affiliate currently or previously associated with Respondent, has ever filed a petition in bankruptcy, taken any actions with respect to insolvency, reorganization, receivership, moratorium or assignment for the benefit of creditors, or otherwise sought relief from creditors? YES NO  
☐ ☐
  
  - (b) Whether Respondent was subject of any order, judgment or decree not subsequently reversed, suspended or vacated by any court permanently enjoining Respondent from engaging in any type of business practice? YES NO  
☐ ☐
  
  - (c) Whether Respondent was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to Respondent which directly arose from activities conducted by Respondent. YES NO  
☐ ☐

**Required Submittal (FORM 2)**  
**Contractor Disclosure Form (Page 3 of 7)**

7. Has any employee, agent or representative of Respondent who is or will be directly involved in the project, in the last ten (10) years:

(a) directly or indirectly, had a business relationship with the City?

**YES** **NO**  
☐ ☐

(b) directly or indirectly, received revenues from the City?

**YES** **NO**  
☐ ☐

(c) directly or indirectly, received revenues from conducting business on City property or pursuant to any contract with the City?

**YES** **NO**  
☐ ☐

8. Whether any employee, agent, or representative of Respondent who is or will be directly involved in the project has or had within the last ten (10) years a direct or indirect business relationship with any elected or appointed City official or with any City employee?

**YES** **NO**  
☐ ☐

9. Whether Respondent has provided employment or compensation to any third party intermediary, agent, or lobbyist to directly or indirectly communicate with any City official or employee, or municipal official or employee in connection with any transaction or investment involving your firm and the City?

**YES** **NO**  
☐ ☐

10. Whether Respondent, or any agent, officer, director, or employee of your organization has solicited or made a contribution to any City official or member, or to the political party or political action committee within the previous five (5) years?

**YES** **NO**  
☐ ☐

11. Has the Respondent or any agent, officer, director, or employee been terminated, suspended, or debarred (for cause or otherwise) from any work being performed for the City or any other Federal, State or Local Government?

**YES** **NO**  
☐ ☐

12. Has the Respondent, member of Respondent's team or officer of any of them (with respect to any matter involving the business practice or activities of his or her employer been notified within the five (5) years preceding the date of this offer that any of them are the target of a criminal investigation, grand jury investigation, or civil enforcement proceeding?

**YES** **NO**  
☐ ☐

13. Please identify any Personal or Financial Relationships that may give rise to a conflict of interest as defined below *[Please be advised that you may be ineligible for award of contract if you have a personal or financial relationship that constitutes a conflict of interest that cannot be avoided]*:

(a) Personal relationships: executives, board members and partners in firms submitting offers must disclose familial relationships with employees, officers and elected officials of the City of Atlanta. Familial relationships shall include spouse, domestic partner registered under section 94-133, mother, father, sister, brother, and natural or adopted children of an official or employee.

**YES** **NO**  
☐ ☐

(b) Financial relationships: Respondent must disclose any interest held with a City employee or official, or family members of a City employee or official, which may yield, directly or indirectly, a monetary or other material benefit to the Respondent or the Respondent's family members. Please describe:

**YES** **NO**  
☐ ☐

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**Required Submittal (FORM 2)**  
**Contractor Disclosure Form (Page 4 of 7)**

## **D. REPRESENTATIONS**

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

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

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

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

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

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

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

**Required Submittal (FORM 2)**  
**Contractor Disclosure Form (Page 5 of 7)**

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.

**Required Submittal (FORM 2)**  
**Contractor Disclosure Form (Page 6 of 7)**

- g. The Contractor shall include the provisions of paragraphs (a) through (h) of this equal employment opportunity clause in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor.
- h. A finding, as hereinafter provided, that a refusal by the Contractor or subcontractor to comply with any portion of this program, as herein provided and described, may subject the offending party to any or all of the following penalties:
  - (1) Withholding from the Contractor in violation all future payments under the involved contract until it is determined that the Contractor or subcontractor is in compliance with the provisions of the contract;
  - (2) Refusal of all future bids for any contract with the City of Atlanta or any of its departments or divisions until such time as the Contractor or subcontractor demonstrates that there has been established and there shall be carried out all of the provisions of the program as provided in the Code of Ordinances;
  - (3) Cancellation of the public contract;
  - (4) In a case in which there is substantial or material violation of the compliance procedure herein set forth or as may be provided for by the contract, appropriate proceedings may be brought to enforce those provisions, including the enjoining, within applicable law, of Contractors, subcontractors or other organizations, individuals or groups who prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.

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

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



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

**Declaration**

Under penalty of perjury, I declare that I have examined this Disclosure Form and Questionnaire 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: \_\_\_\_\_

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

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

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

---

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

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

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

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

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

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

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

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

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

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

## **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: 2014</u></b> (Thousands)	<b><u>Year: 2015</u></b> (Thousands)	<b><u>Year: 2016</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: \_\_\_\_\_

**Required Submittal (FORM 4.1)**

**Certification of Insurance Ability Instructions:**

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

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

- (a) Insurer is licensed by the Insurance and Safety Fire Commissioner of the State of Georgia to transact insurance business in the State of Georgia;
- (b) Insurer has reviewed the Agreement attached to the solicitation for Project Number **FC-9976, Citizens Informational Digital Kiosks** \_\_\_\_\_: \_\_\_\_\_ (**"Project"**) and its corresponding **Appendix for Insurance Requirements**;
- (c) Insurer certifies that if, as of the date written above, (**"Offeror"**) was selected as the successful Offeror for the Project, Insurer would provide insurance to Offeror for this Project in accordance with the terms set forth in the corresponding **Appendix for Insurance Requirements**; and

**PLEASE NOTE: If this Form 4.1 is executed by an Attorney-in-Fact, then Insurer must attach a copy of a duly executed Power-of-Attorney evidencing such authority in addition to correctly completing this Form 4.1. If Offeror is unable to provide City with insurance that comply with the terms of the corresponding Appendix for Insurance Requirements within ten (10) days of receiving notice of intent to award the Project from the City, the City may, in its sole discretion, retain Offeror's security submitted with its offer and/or disqualify Offeror from further consideration for the award of the Agreement.**

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

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

\_\_\_\_\_

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

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

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

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

**Required Submittal (FORM 4.2)**

**Certification of Bonding Ability Instructions:**

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

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

- (a) Surety is licensed by the Insurance and Safety Fire Commissioner of the State of Georgia to transact surety business in the State of Georgia;
- (b) Surety has reviewed the Agreement attached to the solicitation for Project Number **FC-9976, Citizens Informational Digital Kiosks**:  
("Project") and its corresponding **Appendix for Insurance Requirements**;
- (c) Surety certifies that if, as of the date written above, \_\_\_\_\_ (**"Offeror"**) was selected as the successful Offeror for the Project, Surety would provide bonding to Offeror for this Project in accordance with the corresponding **Appendix for Insurance Requirements**; and
- (d) **Surety only**: The Surety states that Offeror's uncommitted bonding capacity (not taking into account this Project) is approximately \$ \_\_\_\_\_ (U.S.). Surety's statement set forth in this Section (d) does not represent a limitation of the bonding capacity of Offeror or that Offeror will have the bonding capacity noted above at the time of contract execution for this Project.

**PLEASE NOTE: If this Form 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 Offeror is unable to provide City with bonds that comply with the terms of the corresponding Appendix for Insurance Requirements within ten (10) days of receiving notice of intent to award the Project from the City, the City may, in its sole discretion, retain Offeror's security submitted with its offer and/or disqualify Offeror from further consideration for the award of the Agreement.**

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

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

\_\_\_\_\_

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

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

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

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



**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-9976, Citizens Informational Digital Kiosks**:

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 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:           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, in the penal sum of either: [i] \_\_\_\_\_ Dollars and Cents (\$\_\_\_\_\_); or [ii] 5% of PRINCIPAL'S Proposal amount for **PROJECT NUMBER: FC-9976, Citizens Informational Digital Kiosks**; good and lawful money of the United States of America, to be paid upon demand of the City of Atlanta, Georgia, 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 City of Atlanta, Georgia, for **PROJECT NUMBER: FC-9976, Citizens Informational Digital Kiosks**, 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 City of Atlanta, Georgia, each in the amount of one hundred percent (100%) of the total Contract price in form and with security satisfactory to said City of Atlanta, Georgia, 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 City of Atlanta, Georgia, 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 CITY and judgment is recovered, the SURETY shall pay all costs incurred by the CITY in such suit, including attorney's fees to be fixed by the Court.

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

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

Enclosed is a Proposal Bond in the approved form, in the amount of either:

[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-9976,**  
**Citizens Informational Digital Kiosks;**

\_\_\_\_\_. The money payable on this bond shall be paid to the City of Atlanta, Georgia, 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]**

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

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

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

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

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

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

**Surety:**  
**Name:** \_\_\_\_\_  
**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**(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 seven (7) complete copies of the Original Proposal including all required attachments.

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

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

Item Number

**Part I – Instruction to Proponents** ( )

**Appendix A - Office of Contract Compliance (Required Submittals Included)** ( )

**Part IV, Section 2 – All Required Submittal Forms (if any of the required submittal documents are not submitted or incomplete within your Proposal submittal package, your firm may be deemed non-responsive). Required Submittals include but are not limited to:** ( )

Form 1; Illegal Immigration Reform and Enforcement Act Forms;  
Form 2; Contractor Disclosure and Declaration Form;  
Form 3; Proponent Financial Disclosure;  
Form 4.1; Certification of Insurance Ability;  
Form 4.2; Certification of Bonding Ability;  
Form 5; Acknowledgment of Addenda;  
Form 6; Proponent Contact Directory;  
Form 7; Reference List; and  
Form 8; Proposal Bond;  
Appendix E, Equipment List for Owned Property.

**Proponent's Official Company Name:**

**Company Physical Address:**

**President/Vice President/Owner Name:**

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

**Office Telephone Number:** \_\_\_\_\_

**Direct Cell Telephone Number:** \_\_\_\_\_

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

**Primary Point-of-Contact Concerning RFP:** \_\_\_\_\_

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

**Office Telephone Number:** \_\_\_\_\_

**Direct Cell Telephone Number:** \_\_\_\_\_

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

**Part 5**  
**Draft Professional Services Agreement**

## DRAFT NON PROFESSIONAL SERVICES AGREEMENT

### FC-9976, Citizens Informational Digital Kiosks

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

<b>Contract Name: Citizens Informational Digital Kiosks</b>	<b>Contract No. FC-9976</b>
<b>Service Provider</b>	<b>City of Atlanta</b>
<b>Name:</b>	<b>Using Agencies:</b> Department of Public Works Department of Atlanta Information Management
<b>Address:</b>	<b>Address: 55 Trinity Ave.</b> <b>Atlanta, Georgia 30303</b>
<b>Phone:</b>	<b>Phone: 404-330-6240/404-330-6110</b>
<b>Authorized Representative:</b>	<b>Authorized Representative:</b> <b>William Johnson, Commissioner</b> <b>Samir Saini, Chief Information Officer</b>

#### 1. Background.

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

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

#### 2. Term.

2.1 Initial Term. The initial term of this Agreement will be five (5) base years. This Agreement shall commence on the Effective Date and end on [\_\_\_\_\_]. 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 a two (2) year additional term according to the following procedure:

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

2.2.2 If such legislation is enacted, within (5) five days of such enactment, City will notify Service Provider of such renewal, at which time Service Provider shall be bound to



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. Non Professional Agreement
2. Exhibit A – Services and Additional Compensation Terms  
Exhibit A.1--Cost Proposal
4. Exhibit B – Definitions
4. Exhibit C --Legislation
5. Exhibit D - OEAM Security Policies
6. Exhibit E - Dispute Resolution Procedures
7. Appendix A - Office of Contract Compliance Requirements
8. Appendix B - Insurance and Bonding Requirements
9. Appendix C-Additional Contract Documents (IIREA, Business License and Contractor Disclosure Statements)
10. Appendix D-Special Conditions, Drawing or Negotiated Terms and Conditions

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

### **5. Services.**

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

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

### **5.3 Change Documents.**

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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.

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>2</sup> All changes shall be implemented pursuant to this subsection (the "Change Document Procedures") and any Applicable Law.

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

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

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

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

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

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

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

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

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<sup>2</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.).

if any. A Proposed Change Document from Service Provider will become effective only when executed by an authorized representative of City.

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

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

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

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

6.2 Service Provider Authorized Representative. Service Provider designates the Service Provider Authorized Representative named on page 1 of this Agreement ("Service Provider Authorized Representative") and, such Person shall: (a) be a project executive and employee within Service Provider's organization, with the information, authority and resources available to properly coordinate Service Provider's responsibilities under this Agreement; (b) serve as primary interface and the single-point of communication for the provision of Services by Service Provider; (c) have day-to-day responsibility and authority to address issues relating to the Services; and (d) devote adequate time and efforts to managing and coordinating the Services.

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

6.4 Removal of Personnel Assigned to City Contract. Within a reasonable period, but not later than seven (7) days after Service Provider's receipt of notice from City that the continued assignment to the City Contract of any Service Provider Personnel is not in the best interests of City, Service Provider shall remove such Service Provider Personnel from City's

Contract. Service Provider will not be required to terminate the employment of such individual. Service Provider will assume all costs associated with the replacement of any Service Provider Personnel. In addition, Service Provider agrees to remove from City's Contract any Service Provider Personnel who has engaged in willful misconduct or has committed a material breach of this Agreement immediately after Service Provider becomes aware of such misconduct or breach.

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

6.6 Key Service Provider Personnel and Key Subcontractors.

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

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

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

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

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

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

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

6.9 Ethics in Contracts.

6.9.1 Gratuities and Kickbacks. In accordance with the City of Atlanta's Code of Ordinances, Section 2-1484, as may be amended, it shall be unethical for any person to offer, give or agree to give any employee or former employee or for any employee or former employee to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor. Additionally, it shall be unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

6.9.2 Fraud and misrepresentation. Any written or oral information provided by [insert as appropriate "Contractor" or Service Provider"], directly or indirectly related to the performance of the services required by this Agreement, constitutes material representations upon which the City relies for the requirements of the Agreement and compliance with local, state and federal laws, rules and regulations. [Contractor] agrees to notify the City immediately of any information provided to the City that it knows and/or believes to be false and/or erroneous and immediately provide correct information to the City and take corrective action. [Contractor] further agrees to notify the City immediately of any actions or information that it believes would constitute fraud or misrepresentation to the City in performance of this Agreement, whether or not such information actually constitutes fraud and/or misrepresentations, by contacting the Integrity Line 1-800-884-0911. [Contractor] agrees to place signage provided by the City regarding the Integrity Line at the location to which [Contractor's] employees report to perform the services required by this Agreement. [Contractor] acknowledges and agrees that a finding of fraud or other impropriety on the part of the [Contractor] or any of its [subcontractors] may result in suspension or debarment of the [Contractor]; and the City may pursue any other actions or remedies that the City may deem appropriate. [Contractor] agrees to include this clause in its [subcontracts] and take appropriate measures to ensure compliance with this provision.

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

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

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

Representative. However, Service Provider shall not be compensated under any provision of this Agreement for repeated performance of such disapproved items.

## **8. Payment Procedures.**

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

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

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

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

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

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

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

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

9.1 Authority. Service Provider is duly incorporated or formed, validly existing and is in good standing under the laws of the state in which it is incorporated or formed, and is in good standing in each other jurisdiction where the failure to be in good standing would have a

material adverse affect on its business or its ability to perform its obligations under this Agreement. Service Provider has all necessary power and authority to enter into and perform its obligations under this Agreement, and the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary actions on its part. This Agreement constitutes a legal, valid and binding obligation of Service Provider, enforceable against it in accordance with its terms. No action, suit or proceeding in which Service Provider is a party that may restrain or question this Agreement or the provision of Services by Service Provider is pending or threatened.

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

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

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

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

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

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

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

## **11. Confidential Information.**

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

benefit or the benefit of any other Person other than in the performance of its obligations under this Agreement.

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

## **12. Work Product.**

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

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



of Applicable Law, Service Provider shall, immediately upon request, unconditionally and irrevocably assign, transfer and convey to City all rights, title and interest in the Work Product.

12.5 Without any additional cost to City, Service Provider Personnel shall promptly give City all reasonable assistance and execute all documents City may reasonably request to enable City to perfect, preserve, enforce, register and record its rights in all Work Product. Service Provider irrevocably designates City as Service Provider's agent and attorney-in-fact to execute, deliver and file, if necessary, any documents necessary to give effect to the provisions of this Section and to take all actions necessary, in Service Provider's name, with the same force and effect as if performed by Service Provider.

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

#### **13.1 General.**

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

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

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

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

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

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

14.1 General Indemnity. Service Provider shall indemnify and hold City, its agencies and its and their respective officers, directors, employees, advisors, and agents, successors and

permitted assigns, harmless from any losses, liabilities, damages, demands and claims, and all related costs (including reasonable legal fees and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from claims or actions based upon:

(a) Service Provider's or Service Provider Personnel's performance, non-performance or breach of this Agreement;

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

(c) any actual, alleged, threatened or potential violation of any Applicable Laws by Service Provider or Service Provider Personnel, to the extent such claim is based on the act or omission of Service Provider or Service Provider Personnel, excluding acts or omissions by or at the direction of City;

(d) death of or injury to any individual caused, in whole or in part, by the tortious conduct of Service Provider or any Person acting for, in the name of, at the direction or supervision of or on behalf of Service Provider; and

(e) damage to, or loss or destruction of, any real or tangible personal property caused, in whole or in part, by the tortious conduct of Service Provider or any Person acting for, in the name of, at the direction or supervision of or on behalf of Service Provider.

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

**15. Limitation of Liability.**

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

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

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

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

**18. Termination.**

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

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

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

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

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

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

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

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

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

18.6 Effect of Termination. Unless otherwise provided herein, termination of this Agreement, in whole or in part and for any reason, shall not affect: (a) any liabilities or obligations of either Party arising before such termination or out of the events causing such termination; or (b) any remedies to which a Party may be entitled under this Agreement, at law or in equity. Upon termination of this Agreement, Service Provider shall immediately: (i)

discontinue Services on the date and to the extent specified in the notice and place no further purchase orders or subcontracts to the extent that they relate to the performance of the terminated Services; (ii) inventory, maintain and turn over to City all work product, licenses, equipment, materials, plant, tools, and property furnished by Service Provider or provided by City for performance of the terminated Services; (iii) promptly obtain cancellation, upon terms satisfactory to City, of all purchase orders, subcontracts, rentals or any other agreements existing for performance of the terminated Services, or assign those agreements, as directed by City; (iv) comply with all other reasonable requests from City regarding the terminated Services; and (v) continue to perform in accordance with all of the terms and conditions of this Agreement any portion of the Services that are not terminated.

**19. Dispute Resolution.**

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

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

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

**20. General.**

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

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

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

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

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

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

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

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

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

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

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

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

20.13 Unauthorized Goods or Services. Service Provider acknowledges that this Agreement and any changes to it by amendment, modification, change order or other similar document may have required or may require the legislative authorization of the City's Council

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

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

**City of Atlanta**

**[Service Provider]**

---

**Mayor**

---

**Municipal Clerk (Seal)**

**Approved:**

---

**Commissioner of Public Works**

---

**Chief Information Officer**

---

**Chief Procurement Officer**

**Approved as to form:**

---

**City Attorney**



**Signature Block Options for Service Provider:**

**Corporate signature:**

**[Insert Corporate Name]**

\_\_\_\_\_

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

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

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

\_\_\_\_\_

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

**Limited Liability Company:**

**[Insert LLC Name]**

\_\_\_\_\_

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

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

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

\_\_\_\_\_

**Notary Public (Seal)**

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

**Part 6**  
**IIREA Preview Program Guidelines**

**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**  
**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

## Illegal Immigration Reform and Enforcement Act Forms

### 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

**Exhibit A**  
**Scope of Services**

## **Scope of Work**

### **Consumer Informational Digital Kiosks**

#### **Desired Features and Components Deliverables**

(Rev 1, 9-12-17)

##### **➤ Overarching System**

The City of Atlanta is seeking a turn-key provider (install, operate, maintain) of a digital kiosk citizen information system to improve the pedestrian experience of residents and visitors in the public right-of-way, principally located on sidewalks. The interactive kiosks will provide wayfinding and routing information to governmental, civic and cultural institutions throughout the city; businesses, including restaurants and retail shops; and comprehensive event listings, with an emphasis on localized content. The kiosks will provide real-time transit schedules and updates, as well as the availability and location of bike share and car sharing to facilitate efficient mobility throughout the City. Additionally, the kiosks will serve as a critical dissemination point of city messages during emergencies, communicate the Atlanta brand as a leader in technology and urbanism, and provide a surveying tool to solicit feedback from residents and visitors.

##### **➤ Software Capabilities**

###### **❖ Must Have:**

###### **Content Management System**

- Ability to customize the operating system as requested by the City's Information Management Department
- Must be able to interact with 311 and 911
  - Two way talk for EMS and APD via buttons
- Must be based on an Open Platform
- Units can be programmed to be interactive and placed in a passive mode with static information
- Data capture of all usage with real time review capability
- Third parties able to insert/have inserted and change content in real time (with appropriate permission)
  - Public: Both Emergency and Essential as well as General Public (non-emergency)
    - City
    - State
    - Federal
    - County
    - CIDs
  - Commercial
    - Advertising

- Advertorial
- Ability to send displayed information immediately to viewer or third party(s) as needed with entry of phone and/or email or via display of a bar code scanner
- Ability to change the time/of exposure and frequency/intervals of messaging
- Ability for system to taken over in its entirety for public emergencies
- Different ads can be served to different units
- Ability to field surveys with real time results
- Ability to field a geo-fence area that identifies cell phone signals and an opt in program for consumers to get information from the units
- Ability to transfer data and information from the kiosk that is location aware to a mobile device. Transfer protocol and capabilities to a mobile device data capture of all usage with real time review capability
- Ability to interact with smart lighting, parking meters/sensors through API and/or a City (AIM) supplied system
- Each unit must be able to be individually programmed in real time
- Content Management System must be able to align with the Streetcar digital information/advertising system (same or an API)
- CMS system must be able to be compatible (or have an API) the SOOFA system

#### **On-Screen Information & Functionality**

- Touch–screen capability (can be turned off as needed)
- Customized mapping by location
- Multi-modal mapping, wayfinding, and routing information to nearby civic and cultural destinations throughout the City
- Information and mapping for every business, entertainment venue and point of interest in great depth and with real-time accuracy; mapping-instant directions and be orientable based on units location and facing direction
- Comprehensive event listings, with an emphasis on localized content
- Ability to filter searches by subject category (such as type of restaurant), including eating/drinking establishments, retail shops, entertainment and attractions, cultural activities, lodging, and events (such as concerts, art shows, sporting competitions, etc.)
- Real-time display of transit updates, including route schedules, directions and information for all forms of public transportation – rail, bus, and bike share – to facilitate mobility (e.g.)
  - MARTA Bus and rail and streetcar (real time)



- Ride share: Access info and approximate wait time from that location (if possible)
- Car share service locations
- Bike Share locations and inventory status (if available)
- Taxi contact numbers
- Two-way communication that enable community members to give feedback using an interactive screen
- Provide consumer interactivity and offer real time information on (for example)
  - Local retail stores (within designated distance of EACH unit)
  - Hotels
  - Restaurants
  - Public services
- Deliver real time weather
- Ability for unit takeover and red light emergency flashing
- Multiple language capability (4)- English, Spanish, French, 1 TBD
- A pedestrian counter

❖ **Like to Have:**

- Include an ecommerce element that may be activate or dormant
  - Public Transportation e-ticketing sales
  - Hotel and restaurant reservations
  - Delivery of a shopping e-coupon Contain up to date parking information
  - Pay city bills
- Multiple language capability (10) beyond basic 4
- The System has the ability to measure viewership (estimates) for a campaign by an advertiser(s)
- Contain photo capability with consumer download (may be turned on/off)

➤ **Physical Unit Technical and Specs**

❖ **Must Have:**

- 10 year or 100,000 hours warranty/guarantee against ANY degradation of the color projection/brightness on the screens
  - The units exterior /framing must be able to conform to different design norms (within reason) to fit within specific neighborhoods.
  - The Exterior of the sign or the screen itself must make it clear that this is a wayfinding and information sign and NOT a pedestrian billboard. It could be with a standard "I" at the top. It could be constant screen message?

- Have the ability for advertising messaging to shrink and/or remain on a dedicated screen in order for the advertising to not overwhelm the basic data/informational content.
  - Be able to hold multiple sensors (air quality, weather, etc.) including Small Cell Antenna
- Operate on 110 UNLESS cost to install and operate with 220 is absorbed by vendor
- Back-up power system to operate if there is a power outage for up to 24 hours with default content
- Ingress Protection (IP) rating (must be 54/56)
- The unit should have USB ports, also DSL, Ethernet (NOT for consumer use)
- Screen Sizes: There must be a variety of screen sizes offered to accommodate unique locations
- Panel tech: Comparable to IPS LED Direct backlit
- Resolution: Minimum of 3840 x 2160
- Brightness: Minimum 6,000 nits with ability to adjust brightness based on location, time of day, cloud cover, etc.
- Contrast ratio minimum 5000:1
- Viewing angle minimum: 178° / 178°
- Polarizer: Clear, AR Coating
- Must be able to see with polarized sunglasses
- Input Minimum: HDMI
- Pinch to zoom screens
- Speakers built in that can be enabled or disabled remotely
- ADA compliant
- Physical locations will be permitted and approved by DPW
  - ADA accessibility – min 5 feet clear zone on sidewalk
  - Signs must be outside of intersection and driveway sight triangles to enable clear visibility for drivers, pedestrians, and cyclist.
  - Location must be a minimum of 2 blocks apart or approved by Department of Planning
  - City will dictate a small number/percentage (10-15%) of locations to meet public service needs
- Able to see the screens from very oblique angles
- Ambient light sensors to adjust automatically and with remote
- Full unit visual takeover capabilities
- Operate in Atlanta's most extreme temps (-20F to +130F)
- Screens need to be graffiti and scratch resistant
- Must have Wi-Fi out to 200 feet

- Cover glass minimum: 13.5 mm
- Anti-reflective screen coating
- Contain public surveillance cameras
- Mask color: black
- Ambient Humidity Minimum operating range: 5%-95%
- Screens viewable in direct sunlight with solar load up to 1250W/m2
- Power consumption: Not to exceed: 2100W
- Able to have a “breakaway” type anchoring to reduce damage
- Hide-able USB ports, DSL, Ethernet

❖ **Like to Have**

- Ability to be “wrapped”
- Connectivity with or without fiber
- Ability to manage search based on a paid tiered system.
- VOIP
- Contain highly visible street naming element on the unit if the unit is on a corner location
- LED message board.

➤ **Business Proposition**

❖ **Must Have:**

- Physical Units
  - Provided at no cost to the city including cleaning, (weekly) maintenance (monthly) and an insurance policy to repair or replace damaged units
- Content Management System
  - Provided at no cost to the city including software upgrades, repairs and replacement of components as needed
  - Provide staff to update all commercial content 24-7-365
- Operations
  - Awardee will be responsible for placement of all advertising /paid messaging 24-7-365
  - Awardee will train City staff (or contractor) to manage all city/government related editorial content
- Ad sales model should reflect the Awardee right to generate revenue from Advertising sales
- Business proposition must address proponents POV on City opportunity to lease space in the units for wi-fi and small cell, beacons and other smart apps
- City will have ownership of all data that is generated from the units

- Proponent will propose a schedule of placement
- Agree that a mutually agreed upon number of the units are placed in locations determined by the City of Atlanta and its partners such as the CID's; County, State and Federal Governments, etc.
- The business relationship should provide upside revenue for the City over the long term
- Term should be 5 years minimum/10 years maximum with similar renewal periods at city's option

❖ **Like to Have:**

- A hard cash upside guarantee

➤ **Company**

❖ **Must Have:**

- At least 5 years' experience in building and deploying similar physical structures to those being proposed
- At least 2 years' experience in developing and deploying a content management system similar to what is being proposed
- At least 5 years' experience in local advertising sales in a major Metro a (5+ years) local advertising sales team (cannot be a start-up department), unless there is a per annum cash guarantee for the term of the contract with possible upside
- Proven capital reserves to insure the fulfillment of the contract for the full term of the contract regardless of the level of actual advertising sales
- Provide proof of patents/patent pending and TM's
- 48 hour (business) fix to tech or operational issues
- Liability insurance to meet city requirements
- Cyber security insurance-focus on credit card use/data theft
- Pay for and report UX/UI testing
- Sales arm must agree to sell advertising on the city of Atlanta Green in Right of way retail kiosks (10-20) as part of this package
- Provide details on the process the company has for working with city clients on Content Development/Sourcing/Deployment
- Provide recommendations on how much of the content will be generated by software automation and which portions will be manually imputed
- Provide the company's standard operating procedures for a content management system partnership with a municipality
- Provide its fabrication/installation /maintenance of system protocols
- Provide a description of contract management procedures for municipal contracts

❖ **Like to Have:**

- Been in the place based media business for 5+ year
- Teams with at least 3 years of experience working collaboratively

## **Adjunct Scope**

➤ **Retail Kiosk Signage**

- Coincident with identifying a company to provide and operate the Citizen Digital Informational Kiosks the City is requiring that the winning proponent also assume the responsibility to sell advertising on signage (static and digital) to the approximately 17 retail kiosks that are now in the right of way.
- The responsibility of the winning proponent for this part of the scope will be as follows
  - Review the units for locations for maximum revenue potential and develop a proposal for either keeping the units in their current locations or moving them to other proposed locations downtown
  - Place static signage fixtures on units that do not have them
  - Provide digital screens that have similar visual and programming characteristics to the Informational Kiosk screens on units that have viewership that justifies the investment
  - Provide a recommendation for networking any digital screens on the retail units with the Citizen Informational Kiosks
  - Sell the advertising as part of the Citizen Informational Kiosks effort

**Exhibit A.1**  
**Cost Proposal**

## **Exhibit B**

### **Definitions**

## DEFINITIONS

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

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

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

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

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

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

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

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

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

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

Responsible Proponent- means any person who has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit which will ensure good faith performance.

Responsive Proponent - means a person who has submitted a proposal or offer which conforms in all material respect to the request for proposals. A Proposal which is accurate and complete, with respect to Proposal Schedules and information submitted relative to the technical qualifications, financial responsibility and is able to comply with Equal Opportunity and other requirements of the Agreement Documents.

Non-Responsive Proponent - would be the opposite of above-referenced definition.

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

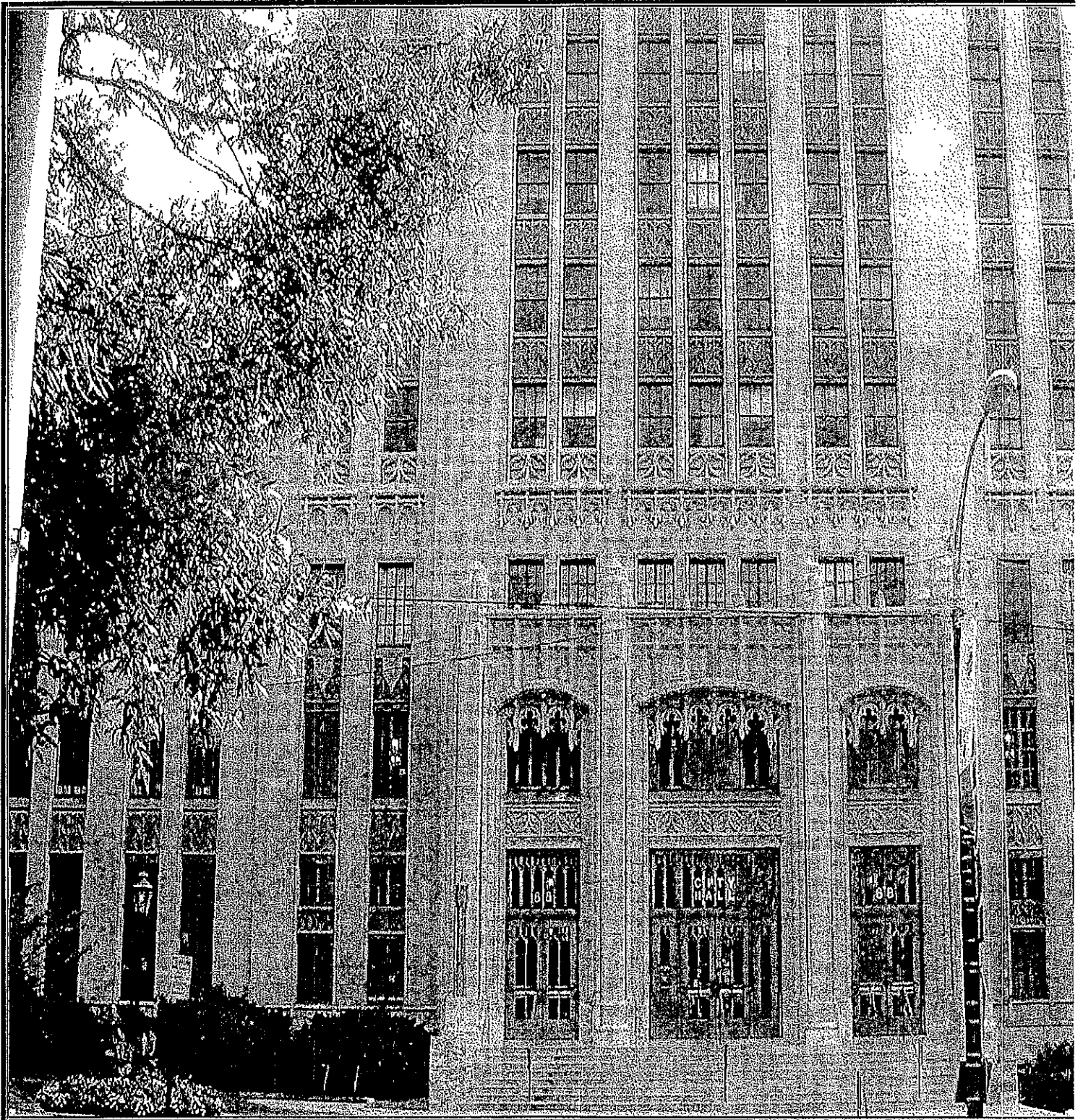
“Third Party” means a Person other than the Parties.



**Exhibit C**  
**Authorizing Legislation**  
**(To Be Inserted in Final Agreement)**

**Exhibit D**  
**City Security Policies**

**CITY OF ATLANTA  
OFFICE OF FACILITIES MANAGEMENT  
ENVIRONMENTAL, HEALTH, SAFETY AND SECURITY  
CONTRACTORS' MANUAL**



# **CITY OF ATLANTA**



## **OFFICE OF FACILITIES MANAGEMENT**

### **ENVIRONMENTAL, HEALTH, SAFETY AND SECURITY**

### **CONTRACTORS' MANUAL**

*Safety comes before all else –  
"ZERO ACCIDENTS"*

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#### **Contractor's Check List**

## **1.0 INTRODUCTION**

The Office of Enterprise Assets Management (OEAM) manages a number of facilities that provide for work, learning, and recreation.

OEAM is committed to providing a safe and healthy working environment for citizens, employees and contractors. It is our mission to ensure all activities in City of Atlanta facilities are carried out safely and in full compliance with relevant laws.

Unsafe work practices can result in serious injury and damage to property. These damages can result in large financial penalties for employees and contractors alike.

## **2.0 WHAT IS A HAZARD**

A 'hazard' is something that may cause harm or injury. Workplace hazards include moving parts of machinery, working at heights, slippery floors, electric energy, excessive noise, toxic or flammable substances, and/or lifting heavy objects.

## **3.0 WHAT IS A RISK**

A 'risk' is the likelihood that a hazard will cause specific harm or injury to persons or damage to property.

### **3.1 WHAT IS A RISK ASSESSMENT**

A Risk Assessment is the process of identifying safety and health hazards associated with work. Assessing the level of risk involved, and prioritizing measures to control the hazards and reduce the risks.

### **3.2 WHAT IS RISK MANAGEMENT**

Risk Management, like risk assessment, involves assessments of risk associated with any work activity. It also includes control and monitoring of such risks.

### **3.3 CONTRACTOR'S BASIC RESPONSIBILITY**

Everyone working on sites under the purview of OEAM is obligated to take reasonable care to:

- \* Ensure the health and safety of the employees and public;
- \* Avoid risking the safety and health of any other person;
- \* Assist new site personnel in recognizing job hazards and following necessary procedures;
- \* Ensure their work site is safe for themselves and others;



- \* Practice good site housekeeping to minimize risk of avoidable accidents;
- \* Identify OEAM before starting any work;
- \* Be knowledgeable of all activities which could potentially pose a safety threat, hazard or danger to the safety of any person; and
- \* Immediately take effective action to eliminate any safety hazard.

### **3.4 WAIVERS**

Deviations from the procedures defined herein are not permitted without written authorization from the Director of the OEAM.

### **4.0 GENERAL**

#### **4.1 HAND PROTECTION**

Gloves should be worn to prevent burns, abrasions, pinching, and to provide protection from electric shock, etc.

#### **4.2 HAIR PROTECTION**

Where there is danger of hair entanglement in moving equipment or exposure to ignition, steps must be taken to keep the hair close to the body.

#### **4.3 SAFETY SHOES**

For maximum foot protection, workers should wear safety shoes with toe protection and slip resistant soles. Suitable work shoes are defined as having durable soles and substantial leather upper tops that can be securely fastened or tied. Soft canvas, nylon, athletic or cloth type footwear are neither acceptable nor permitted.

#### **4.4 HEARING PROTECTION**

At a minimum, hearing protection must be worn where signs indicate hearing protection is required or where equipment exceeds acceptable noise limits. Contractors shall also provide hearing protection in accordance with their responsibilities under the Occupational Safety and Health Administration (OSHA) hearing conservation requirements.

#### **4.5 EYE PROTECTION**

Eye protection with side shields must be worn in areas designated by OEAM. Safety glasses must meet ANSI Z87.1 standards for Occupational Eye Protection (marked as such on the glasses). Additional eye protection (e.g. goggles, faceshields) must be

considered when significant hazards from sources such as particles, dust, electricity, heat, chemicals, and/or grass and other debris are present.

#### **4.6 RESPIRATORY PROTECTION**

If the work assignment requires respiratory protection equipment, employees must receive training, a medical evaluation and a respirator fit test. Prior to use, the contractor must select the appropriate respirator for the work to be performed. The contractor must have a written respirator program that complies with OSHA requirements.

#### **4.7 ALCOHOL AND OTHER DRUGS**

The contractor agrees to advise its employees and sub-contractors of OEAM's policy on the use, possession, sale and distribution of alcohol, drugs or other controlled substances in the workplace. Persons affected by alcohol, other drugs or medication which impair function are not permitted to carry out work assignments. Where it is observed that a contractor's staff may be affected by alcohol or other drugs, the matter will be referred to the contractor who will be required to take immediate action. The incident will be recorded by the OEAM/Facilities Management staff.

#### **4.8 BEHAVIOR ON SITE**

##### **HARASSMENT & INAPPROPRIATE LANGUAGE**

Contractors are advised that offensive language (e.g. swearing), offensive behavior and harassment are not accepted under any circumstances. All forms of harassment are unacceptable. Offensive behavior and/or language includes all behavior that reinforces inappropriate demeaning or discriminatory attitudes or assumption about persons based on age, race sex, sexual orientation, marital status or disability. Whistling unsolicited remarks of a sexual nature is specifically prohibited.

#### **4.9 FIRST AID AND MEDICAL EMERGENCIES**

It shall be the contractor's responsibility to provide first aid, transportation, and emergency medical services for their employees at any work site.

#### **4.10 EVACUATIONS**

The contractors must be familiar with the evacuation routes, assembly, and staging areas for their work locations. When a building alarm sounds or notice is given to evacuate, individuals must evacuate immediately. Evacuees must remain in the

assembly or until the all-clear signal is given. If the contractor has information relating to the emergency, the contractor shall notify the Director of Facilities for OEAM.

#### **4.11 ACCIDENT & INJURY REPORTING**

An 'accident' is defined as an unexpected or undesirable event especially one causing injury or damage.

An 'incident' is a potentially hazardous event which did not cause injury or damage but could have. All accidents and incidents must be reported to the Facilities Director as soon as possible. If serious personal injury or damage to the facilities occurs the area must be left 'as is' until advisement is received.

#### **4.12 FIRE & SAFETY PROCEDURES**

Fire extinguishing equipment shall be located and readily accessible. Employees shall be aware of location of all fire extinguishers.

#### **4.13 ACCIDENT, ILLNESS AND INJURY INCIDENT INVESTIGATIONS**

It shall be the contractor's responsibility to thoroughly investigate all serious or potentially serious accidents or incidents involving the contractor's staff at sites under the purview of the OEAM.

#### **4.14 SMOKING POLICY**

It is the contractor's responsibility to ensure their employees are in compliance with the City of Atlanta's policy of a smoke-free environment.

#### **4.15 CERTIFICATED PERSONNEL**

The contractor's shall only employ persons holding appropriate certificates and qualifications to perform any part of the work required by OEAM.

#### **4.16 LICENSES**

Copies of *current and valid licenses and permits* are to be made available to OEAM before commencing assigned work.

- Plumbing
- Gas Fitting
- Electrical Work
- Structural

- Carpentry/Minor Maintenance (Carpenters Trade Qualification)
- Refrigeration and Air Conditioning
- Forklift
- Elevated Work Platform
- Hot Work

#### **4.17 CORRECTIVE ACTION**

The Contractor must notify OEAM of the completion of any corrective actions identified as a result of an accident, illness or injury incident investigation.

#### **4.18 VEHICLE SITE REQUIREMENTS**

It shall be the contractor's responsibility to assist in the control and identification of non-authorized vehicles entering work sites and reduce the potential for vehicle accidents on-site. Contractor's leaving vehicles on site for extended periods shall be required to leave keys with the loading dock security personnel on duty.

#### **4.19 VEHICLE SITE OPERATION**

It shall be the contractor's responsibility to ensure employees operating specified equipment and vehicles on-site comply with all statutory requirements.

- \* All vehicles, loaders, cranes, forklifts and trucks must comply with the road rules of the State of Georgia;
- \* Contractor employees must have a valid driver's license; and
- \* Cell phones other than "hands free" types shall be prohibited while operating one of the above referenced vehicles, while on the premises.

It is the contractor's responsibility to ensure that all cranes and mobile equipment to be used are certified as being safe operating condition prior to their arrival on site. Certification must be made available to OEAM upon request.

#### **4.20 NOTICES AND SIGNS**

It shall be the contractor's responsibility to erect and maintain standardized safety signs that can be quickly recognized and understood; signs must be located where the message is legible, attracts attention and is clearly visible.

#### **4.21 HOUSEKEEPING**

It shall be the contractor's responsibility to ensure amenities are in a clean and hygienic state and provide standard bins so waste does not litter the workplace. The contractor must also secure material in an organized and safe manner.

## **5.0 SECURITY REQUIREMENTS**

Contractors and their employees assigned to work at sites under the purview of OEAM are expected to abide by all building security policies. These policies do not relieve the Contractors of their contractual duties. OEAM will not be responsible for any lost, stolen or damage to the contractor equipment.

### **5.1 IDENTIFICATION**

Identification badges supplied to contractors by OEAM must be kept on the person at all times.

### **5.2 INSPECTION POLICY**

OEAM reserves the right to inspect all property, including but not limited to personal property, while the on premises.

### **5.3 TERMINATION OF WORK ASSIGNMENTS**

**Upon termination of the Contractor's assignment:**

The contractor must immediately notify OEAM of job completion; and all City of Atlanta issued identification badges and keys must be immediately returned to the OEAM project manager/OEAM representative.

### **5.4 EMPLOYEE TERMINATION**

The contractor will not conduct employee terminations on City of Atlanta premises.

### **5.5 REASSIGNMENT OF WORKERS**

Individuals whose prior employment ended as a result of involuntary termination for misconduct on the City of Atlanta premises are not permitted to work on any other City of Atlanta property, and should not be assigned without prior written authorization from OEAM.

### **5.6 SECURITY REPORTING**

Actions and behaviors that are contrary to providing a safe and secure work environment will not be tolerated and must be immediately reported to OEAM. This information should include, but not limited to:

- \*Harassment of any kind;
- \*Theft, damage, or misuse of COA property;
- \*Disorderly, violent, or threatening conduct or suspicious behaviors, situations, and/or incidents;
- \*Criminal activities;
- \*Being under the influence of alcohol or drugs while on City property;

- \*Possession of dangerous weapons, explosives, firearms, unauthorized chemicals;
- \*Unauthorized access into restricted areas;
- \*Violation of any City policies or codes;
- \*Any activity or behavior that presents an increased risk to site workers, facilities, or the City of Atlanta.

## **6.0 HAZARDOUS MATERIALS AND SUBSTANCES**

Contractors must be certain of properties of every substance handled in sites under the purview of the OEAM. Take every precaution as directed; by the MSDS, know the protective equipment needed. In addition employees should be aware of how chemicals and substances can contact the body and how that contact can be prevented.

### **6.1 APPROVAL FOR HAZARDOUS MATERIAL USE**

The use of all hazardous materials (solids, liquids, gases, and compressed gases) on City sites requires written approval from the OEAM prior to use. Contractors are limited as to the amount of hazardous materials they may store at sites during the work.

### **6.2 MATERIAL SAFETY DATA SHEETS (MSDS)**

Contractors must maintain a current copy of the MSDS (Material Safety Data Sheets) for each hazardous material and a current inventory of all hazardous materials brought onto the site. MSDS must be maintained at the work site and must be easily accessible to contractors, employees, and to OEAM during normal working hours.

### **6.3 CHEMICAL STORAGE**

All chemicals on City properties must be used and stored according to manufacturer's recommendations on the MSDS. Incompatible chemicals must be separated. Storage cabinets and ventilated storage areas may need to be provided to reduce fire, explosion or health risks and should remain secured at all times.

### **6.4 CONTAINER LABELING**

Chemicals brought onto the site by contractor must bear labels identifying the chemicals and the associated hazard warnings.

#### **Spill Prevention and Response**

OEAM procedures for the prevention and reporting of spills and/or releases of oil or hazardous materials are outlined below:

#### **6.4.1 SPILL PREVENTION**

Contractors shall have available equipment that is suitable and sufficient to control potential spills. The contractor is responsible for identifying conveyances to the environment.

The Contactor is responsible for the proper storage of all flammable and combustible chemicals that are brought or stored on the City of Atlanta facilities. Storage of these chemicals may require the use of safety containers or cabinets.

#### **6.4.2 SPILL RESPONSE**

Contractors must immediately notify OEAM of any spill or releases. If a spill occurs the contractor must follow these steps:

##### **Step 1- Contain the Spill**

- \*Prevent further spillage
- \*Contain what is spill
- \*Follow MSDS (Material Safety Data Sheet) information
- \*Block stormwater drain inlet

##### **Step 2- Report the Spill**

- \*If it is a large or dangerous spill immediately notify OEAM.

##### **Step 3- Clean up**

- \*Clean up the spill as quickly as possible (reduce risk of pollution running off the site)
- \*Never wash chemicals down the drain (either inside or outside), or pour chemicals onto the ground. Never leave chemicals to wither; they may be washed into waterway.
- \*Use absorbent material to contain the spill. The contractor is responsible for the proper collection, storage and disposal of waste material in c compliance with EPA (Environmental Protection Agency) and the DEP (Department of Environmental Protection) regulations.

#### **6.5 PEST CONTROL**

The Contractor shall not use any insecticide products in City properties unless such activities are part of your contracted work. It shall be the contractor's responsibility to maintain his/her Pest Control license governed by the State of Georgia (Agriculture Department); employees must be trained and licensed. The contractor's must ensure that they perform site treatments in a manner that minimizes the potential of pest infestations.

#### **6.6 HAZARDOUS WASTE MANAGEMENT**

Contractors must provide OEAM with a list of actual and potential hazardous wastes to be generated during a project. Removal of waste generated by a contractor as part of its work is the responsibilities of the contractor. The contractor must ensure that hazardous waste is properly identified, stored, transported and disposed of in accordance with all applicable local, state and federal laws. The contractor's employees must be appropriately trained to handle hazardous waste safely and in compliance with all applicable laws.

## **6.7 REPORTING CHEMICAL SPILLS**

In case of a spill, the contractor must contact OEAM followed by a written incident report to OEAM within twenty-four (24) hours of the occurrence. The written report must include the following information:

- \*Description of the spill and estimated quantity spilled;
- \*Date and time of the spill;
- \*Copy of MSDS for material spilled; and
- \*Steps taken to reduce, eliminate, and prevent recurrence of the spill.

## **6.8 HAZARDOUS CHEMICAL TRANSPORTATION**

At no time should hazardous material be transported in a manner that could result in an unsafe condition for the public. The transportation of hazardous material shall be conducted in accordance with the Department of Transportation (DOT) Hazardous Materials Regulations for proper packaging; marking, labeling, handling, and documentation.

## **6.9 HAZARDOUS COMMUNICATION (HAZCOM)**

The Contractor shall develop and implement and maintain a Hazard Communication Plan, to be submitted to OEAM prior to any assignment that requires repairing or removal of any hazardous substance. The contractor shall submit an inventory of all hazardous chemicals that are used on each site. The contractor shall also ensure that all containers that are brought on site for storage (e.g. gas, paint, etc.) are labeled and inspected in accordance with all applicable regulations.

## **7.0 ENVIRONMENTAL REQUIREMENTS**

### **7.1 ASBESTOS CONTAINING MATERIALS**

Asbestos-Containing Building Materials (ACBM) and Potential Asbestos Containing Materials (PACM) may be present or encountered at some OEAM sites. The Contractor will inform OEAM of the presence of known ACBM in the work area. Upon discovery of materials suspected to contain asbestos, Contractors must stop work immediately and notify OEAM.

- \*The Contractors' shall have an Asbestos and Demolition License available;
- \*The Contractors' shall not break or crush asbestos sheeting;
- \*The Contractors' must use water spray to minimize asbestos dust;
- \*The Contractors' employees must wear a respirator as necessary;
- \*The Contractors' must double wrap asbestos sheeting in plastic and clearly label;
- \*The Contractors' must deliver asbestos waste to a recognized Waste Management Facility;
- \*The Contractors' must manage and remove asbestos in strict accordance with the Occupational Health and Safety Regulations. Insulating materials shall be presumed to be asbestos containing material until a laboratory analysis determines material to be non-asbestos, or the material is labeled non-asbestos.



## **7.2 EXAMPLES OF MATERIALS THAT CAN CONTAIN ASBESTOS INCLUDE BUT IS NOT LIMITED TO:**

Pipe insulation, pipe coating boiler skin, gaskets, packing, floor tile, transit panels, roofing materials, cable insulation, wiring, sprayed on insulation, and brake linings. Only trained and qualified personnel can remove or disturb Asbestos Containing Material (ACM). If any Contractors' employee suspects or is unsure as to whether materials contain asbestos, they are to immediately contact their supervisor for clarification.

## **7.3 REMOVING OR DISTURBING ASBESTOS**

Asbestos Containing Material (ACM) or Potential Asbestos Containing Material (PACM) is removed or disturbed, the amount and reason for the work will determine which of four classes and the related work practices and training that will be required. DO NOT enter an asbestos regulated area unless you are trained and meet the requirements for entry.

### **7.3.1 SIGNS AND LABELS**

Regulated areas will have "danger asbestos" signs any disposal bags containing ACM/PACM shall be double bagged and labeled.

### **7.3.2 TRAINING AND CERTIFICATIONS**

Personnel must successfully complete the appropriate level and frequency of training to be able to abate and handle ACM/PACM, and must carry the original license card on their person.

## **7.4 LEAD**

Contractors must contact OEAM to arrange for testing before beginning work that involves the disturbance (e.g., grinding, sanding, welding) of painted surfaces or areas that may contain lead.

## **7.5 MOLD REMEDIATION**

This section provides guidance for contractors and employees who may encounter moldy or potentially moldy building materials. This section is first designed to prevent mold growth and second to ensure compliance during mold remediation activities. The following are EPA guidelines on how to prevent excessive mold growth from becoming a problem in City sites.

- Perform regular building/HVAC inspections and maintenance as scheduled;
- Clean and dry, wet or damp spots within 48 hours;
- Store all raw building materials to prevent exposure to precipitation and moisture prior to and during installation;
- Any newly installed materials found to contain excessive moisture must be removed and replaced at the expense of the contractor;
- Repair leaky plumbing and leaks in the building as soon as possible;
- Watch for condensation and wet spots, repair source(s) of moisture problem(s) as soon as possible;

- Prevent moisture due to condensation by increasing surface temperature or reducing the moisture level in air (humidity). To increase surface temperature, insulate or increase air circulation. To reduce the moisture level in air, repair leaks, increase ventilation (if outside air is cold and dry), or dehumidify (if outdoor air is warm and humid);
- Keep heating, ventilation, and air conditioning (HVAC) drip pans clean, flowing properly, and unobstructed;  
Maintain low indoor humidity, below 60% relative humidity (RH), ideally 30-50%, if possible;  
Don't let foundations stay wet. Provide drainage and slope the ground away from the foundation; and  
Minimize the use of wet extraction machines on carpets during humid seasons (i.e. summer).

The following are EPA guidelines on how to safely investigate and evaluate mold and moisture problems.

- Contact the Office of Environmental, Health, Safety and Security if a mold problem is expected or found;
- Do not touch mold or moldy items with bare hands;
- Do not get mold or mold spores in your eyes;
- Do not inhale mold or mold spores;
- Consider using PPE when disturbing mold. The minimum PPE is a N-95 respirator, gloves, and eye protection; and
- Consult Table 2 of the EPA's guideline for "Mold Remediation in Schools and Commercial Buildings" for Personal Protective Equipment (PPE) and containment guidelines.

#### **7.6 REFRIGERANT GASES (CFCs)**

It shall be the contractor's responsibility to collect Refrigerant Gases in specially sealed cylinders by a licensed waste disposal contractor. These CFCs are not to be released into the atmosphere as they are strong ozone depleting agents. CFC's and HCFC's must be recovered from air conditioning units during servicing or decommissioning.

#### **7.7 PAINT STORAGE AND HANDLING**

Painting operations can present significant hazards to both the painters and fellow workers in the work area. Specific precautions must be taken to control hazards when painting activities are in progress. If the surface to be painted requires preparation, determine if the current coating contains lead or if the material it is applied to contains asbestos. If either lead or asbestos is present, take the necessary precautions.

Flammable solvents or paints shall be handled only in approved safety containers and shall be properly identified and labeled. Brush or roller applications of paint shall be used when practical. Spray painting shall be used only after administrative and engineering controls are established. Any confined area where spray painting, or surface treating or cleaning with solvents is being done shall be properly ventilated and guarded against all sources of ignition including smoking, welding, and burning. Do not strike matches or go near open flame while

wearing clothing contaminated with flammable substance. Do not use gasoline as a cleaning or degreasing agent.

## **7.8 PRECAUTIONS WITH SOLUTIONS AND SOLVENTS**

Kerosene, Naptha and other petroleum solvents are combustible liquids. When using these materials, particularly in spray or atomizing equipment, be sure there are no open flames or sparks in the vicinity. The work area shall be well ventilated. Sparks and flames must be kept well away from areas where acetone is used and stored. The quantity of acetone kept outside of designated storage areas must be no more than is immediately needed. Containers of acetone must be kept tightly closed when not in use. Transport small quantities of solvent only in approved, properly marked, safety containers. The container may require a grounding system to dissipate static charges.

## **7.9 FLUORESCENT LIGHT BULBS, ELECTRONIC AND PCB-CONTAINING BALLAST**

Contractors removing fluorescent light bulbs are responsible for packaging the bulbs and ballasts, and delivering them to an on-site area designated by OEAM for recycling or disposal.

## **7.10 INDOOR AIR QUALITY**

Contractors must contact OEAM before beginning activities that are likely to generate odors in or near occupied areas or building air intakes (e.g., use of paints, adhesives, and combustion engines or other odor-producing chemicals or processes). Additional ventilation or other process controls must be initiated to prevent buildup of vapors or gases that could result in health hazards, fire hazards, or nuisance odors.

## **7.11 WATER POLLUTION**

It is against the law to place any material (other than clean water) in a position where it is likely to leak, fall or be blown into any drain or gutter that is used to receive rainwater. Allowing this to occur can result in an on-the spot fine or legal actions against a business or an individual.

## **7.12 EROSION AND SEDIMENT CONTROL**

Contractors allowing material to enter a waterway or even leaving the material where it can be washed off-site could expect fines or legal actions. Soil, sand, cement and many other pollutants can be washed into waterways-harming wildlife and causing an array other problems.

## **7.13 STORM WATER SYSTEMS**

Prior to starting any project the contractor is responsible for obtaining the proper storm water permit; develop site specific Storm Water Pollution Prevention Plan (SWPP) and implementing appropriate best management practices. The contractor must post the EPA Permit Number or the Notice of Intent (NOI). The contractor must provide a copy of the completed NOI and the Storm Water Pollution Prevention Plan to OEAM prior to any assignment.

#### 7.14 CONTAMINATED SOILS

Soils may be contaminated with oil, asbestos, cyanide, heavy metals or any toxic material. OEAM must be informed about any incidence of soil contamination that may occur or be discovered. Contractors must contact a licensed waste disposal contractor to collect and remove contaminated soil in an approved container; such removal must be authorized by OEAM.

#### 7.15 DECONTAMINATION

Some City facilities may contain process piping, process ductwork, and process tools that carry or contain hazardous materials. Decontamination verification must be completed before the pipes, ductwork, and/or process tools are removed from the site.

#### 7.16 REGULATIONS

**Clean Air Act** regulates emissions of pollutant in the atmosphere include hydrocarbon vapors, emissions by treatment technology, unless air quality requires stricter limits.

**Clean Water Act** regulates the discharge of waste to receiving.

**Resource Conservation and Recovery Act (RCRA)** regulates generation, manifesting, transportation, storage, treatment and disposal of hazardous solid wastes, storage of fuels in underground tank.

**Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)** regulates the cleanup of leaking landfills, reporting spills of certain chemicals, the responsibility and liability for contaminated disposal cleanup.

**Superfund Amendment and Reauthorization Act (SARA Title III)** regulates emergency response plans, right to know issues, and chemical release reporting.

**Occupational Safety and Health Act (OSHA)** regulates employees' right to know, responsible for keeping work area free of hazards, specific procedures for job and industry safety.

**Toxic Substances Control Act (TSCA)** regulates commercial use of most chemical use disposal of Asbestos, PCB, CFCs, reporting all adverse health effects, use labeling, and documentation for chemicals that pose a risk to health or the environment. The law requires you to report any incident that you believe fits the description of possibly causing significant damage to human health or environment. That information should be reported to OEAM included the following:

- An illness or death associated with the use of products or related to chemicals used at a work location;
- Pattern of illness occurring among employees or customers;
- Results of laboratory experiments test which indicate potential adverse health, and environmental effects that may occur; and
- Spills or widespread contamination of chemicals not covered by other reporting regulations.

**Hazardous Materials Transportation Act** regulates hazardous material transported in commerce, activities associated with identifying and classifying hazardous material marking, labeling, placarding and packaging the material, and documentation of material, loading, unloading, incidental storage of hazardous material and reporting unintentional releases.

**Safe Drinking Water Act** regulates enforces quality procedures for drinking water.

## **8.0 SAFETY REQUIREMENTS**

### **8.1 SAFE PERFORMANCE SELF-ASSESSMENT**

#### **ASSESS THE RISK;**

What could go wrong?

What is the worst thing that could happen, if something goes wrong?

#### **ANALYZE HOW TO REDUCE THE RISK**

Do I have all the necessary training and knowledge to do this job safely?

Do I have all the proper tools and personal protective equipment?

#### **ACT TO ENSURE SAFE OPERATIONS**

Take necessary actions to make sure the job is done safely!

Follow written procedures!

Ask for assistance, if needed

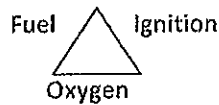
### **8.2 SAFETY SIGNS IN THE WORKPLACE**

Warning signs and safety instructions have become a part of ever day life in recent years and more so in the workplace. Workplace safety signs are simply markings placed by employers that identify a specific risk, hazards or other safety-related issues. Signs are used to warn employees and member of the public about dangerous substances like acid, or to point out fire exits. They also give general information or specific instructions about equipment that must be worn in designated areas. Some signs must be displayed as part of the health and safety rules to reduce risk while some industries carry other more specific requirements.

### **8.3 FIRE PROTECTION AND DETECTION SYSTEMS**

When welding, cutting or grinding, follow established hot work procedures, including fire watch. Flammable and combustible liquids must be stored in proper containers and handled in accordance with regulatory requirements for bonding and grounding. Accumulations of combustible trash (oily rags, paper) are often prime spots for fire ignition and are not permitted by OEAM. It shall be OEAM to maintain fire protection equipment in a fully operational state. Report potential fire hazards to the immediate supervisor. Do not use flame or spark producing tools in areas where combustible gases or dusts exist. Exercise extra caution around coal transfer points due to increased dust levels. Observe all "no smoking" signs; do not obstruct exit doors, stairs or walkways.

#### 8.4 FIRE TRIANGLE



Fuel can be oil or other petroleum products, solid combustibles such as paper, room furnishings or plastic, or natural gas

Ignition may be electrical, hot surfaces, welding sparks, hand tools, discharge static electricity, flashlights or cameras. Attention to hot work permitting and observation of electrically classified areas are key to keeping sources of ignition away from sources of fuel.

Oxygen is present all around us in the atmosphere these three combinations can be lethal; particularly when performing hot work. Oxygen sources should always be isolated.

#### 8.5 FIRE CLASSES

**Class A** fires occur with wood, tress, coal, cloth and paper. The most commonly used extinguisher agent is water.

**Class B-Fires** occur with vapor –air mixture over the surface of flammable and combustible liquids such as, but not limited to grease, gasoline, hydraulic oil, diesel fuel and lubricating oil. The most commonly used fire extinguisher is a dry chemical, a carbon dioxide or water fog extinguishers can also be used.

**Class C-Fires** occur in electrical equipment where non-conducting extinguisher agent must be used, such as dry chemical, carbon dioxide, and halons are suitable. However carbon dioxide extinguishers are not recommended for outdoor use due to wind dilution. Foam and water conduct electricity and shall not be used to combat electrical fires.

**Class D-Fires** occur in metal only, involving combustible metal, such as magnesium, sodium, potassium, sodium-potassium alloys, uranium, and powdered aluminum.

**Class K-Fires** involving cooking oil and grease. These fire extinguishers are kept in kitchen facilities.

#### 8.7 HOT WORK-WELDING, CUTTING AND BRAZING

Contractors must obtain authorization from OEAM prior to work activity and ensure that all safety precautions are met. Contractors must ensure that fire alarms are isolated. Adequate fire protection must be present, with suitable fire extinguishers attached to, or near each welding plant. Welders must use screens to protect all personnel from welding flashes and any waste produced during the welding process.

In addition, the contractor must also maintain the following in accordance with OSHA regulations:

- Proof of Hot Work Permit;
- Remove combustible materials from the area before beginning work;
- Elevate oxygen/acetylene hoses several feet above the work area or otherwise protect them from damage;

- Install anti-flash back (safety/check) valves in both the oxygen/acetylene hoses at the regulator;
- Shield adjacent area with welding partitions; and
- Have a second person stand by with an approved fire extinguisher for welding and burning operations.

## 8.8 TOXIC FUMES

Welding can create toxic fumes. Make sure you have proper ventilation. Keep as much distance as possible between the welding plume and your face. Wear the appropriate PPE. Check the MSDS for the welding rod and components to be used. Remove any paint before welding, burning, or grinding. Remove any degreasers – when welded, chlorinated degreasers can produce phosgene gas, which is extremely toxic.

## 8.9 CONFINED SPACE

A confined space is an area with limited or restricted means of entry or exit that a person can actually enter with their body and that is not designed for continuous human occupancy. Working in these areas requires special training, precautions and permitting. No worker shall enter an area meeting the definition of confined space unless properly trained and authorized. Work that is performed in all of the sites under the purview of the Office of Facilities will conform to the appropriate OSHA standards. Contractors must ensure that fume evacuation, airflow and exchanges of air are all maintained as necessary; confined space gas detection equipment must be used to test the environment.

## 8.10 LOCKOUT TAG OUT (LOTO)

The contractor is responsible for developing, implementing and maintaining his/her own Lockout/Tagout Program in accordance with OSHA regulations as it applies to the work of their contract. Contractors shall submit a copy of its Lockout/Tagout Program to OEAM before the start of any work. Unless otherwise directed, OEAM will shut down and start up utility systems.

### ENERGY SOURCES

There are several energy sources, all of them may be locked and tagged. The list includes:

- \*Electrical
- \*Hydraulic
- \*Pneumatic
- \*Chemical
- \*Thermal

## 8.11 DANGER & OUT OF SERVICE TAGS

OEAMs staff will use the tagging system in accordance with procedures when necessary. OEAM shall provide the 'Danger' and 'Out of Service' tags and use as follows:

### For your own protection:

- Isolate all equipment, switches and controls required to ensure your work-site is safe.]

- Place your tag(s) on all electrical switches and switchboards, other appropriate switches, valves, main isolators or key rings.
- Leave other tags alone. Never remove someone else's danger tag.
- Do not operate switches, valves or equipment that displays a 'Danger' tag or 'Out of Service' tag.

**Change 'Danger' Tags to 'Out of Service' Tags:**

If the equipment is still not safe at the end of the shift, the 'Danger' tag must be changed to an 'Out of Service' tag.

## **8.12 PROTECTIVE BARRIERS**

Protective barriers material may be rope, railings, baffles, caps, barricades, or walls. Protective barriers shall be placed at such a height and position as to prevent personnel from entering areas that are hazardous. The erection of the barrier must take into account the physical layout of the equipment, the nature of adjoining equipment, aisle ways, thoroughfares, and operating equipment. Barriers should be placed:

- A minimum of 10 feet from open excavations greater than 5 feet deep; otherwise, a minimum distance equivalent to depth of the excavation.
- A minimum of 10 feet from overhead work on scaffolds or ladders.
- A distance from the hazard sufficient that a fall at the barrier rope will not result in the individual coming in contact with the hazard. **Never use safety rope for other than its intended purpose.** OEAM will be responsible for placing or removing industrial safety barriers.

## **8.13 EXCAVATION & TRENCHING**

Excavation is any man-made cut, cavity or depression in the earth's surface formed by earth removal. All excavation must be adequately shored and safe access must be provided in all excavations. Contractors must have written authorization for OEAM prior to any excavation work, obtain drawings of the services located in the area.

## **8.14 ELECTRICAL SAFETY**

Only qualified electricians are permitted to work on electrical systems and equipment that uses or controls electrical power. All work shall be conducted in accordance with the National Fire Protection Agency 70E standard for Electrical Safety in the work place. Contractors must not operate electrical tools or equipment in wet areas or areas where potentially flammable dust, vapors, or liquids are present, unless written authorization is obtained from the OEAM. Contractors should erect barriers and post warning signs to ensure non-authorized personnel stay clear of the work area.

## **8.15 LADDERS**

The location of the ladder and the type of work activity may require additional safety requirements. For example, a ladder positioned next to an opening would require fall protection. The type of work and the work environment also dictates the type of ladder to be used, (e.g., metal ladders shall not be used where there is an electric shock potential.) Ladders must be



inspected for wear or damage prior to use. Ensure the ladder is used as intended and within the designated specifications. Avoid overhead obstructions when setting up a ladder. Ensure all ladders have appropriate feet and rest on a solid base. Position the ladder properly. Good rules of thumb for ladder positioning are the use of the palm test.

- Stand with your arms out straight ahead
- Place your toes against the bottom of the ladder
- Make sure your palms touch the shoulder level rung
- Place a ladder one foot out from a vertical surface for every four feet of ladder height.
- Stabilize a straight/extension ladder with a tie off near the upper support unless a co-worker stabilizes the ladder.
- Keep a three-point contact when climbing or working on a ladder.

#### **8.16 FALL PROTECTION**

Full body harnesses with shock-absorbing lanyard of less than six feet or retractable lanyard of any length are to be used where fall protection is required by governmental regulations. Fall protection equipment is to be inspected prior to use. The equipment must be free of rips, tears, nicks, and deterioration. Lanyard snap hooks (double release type only) must work properly. At a minimum, use when working more than 4 feet (General Industry Standard) or 6 feet (Construction Standard) above the floor/ground, while having no handrails or means for eliminating a fall potential. Additionally, working/moving from a manlift, bucket truck, or boom requires the use of fall protection. The lanyard is to be fastened to approved fall protection points only. To assure your safety, attach the lanyard only to:

- Lines installed specifically for fall protection purposes
- Approved structural materials
- Connection points on lifts or buckets
- Scaffolds specifically designed to handle a fall protection device
- A lanyard must be hooked according to the manufacturer's recommendations.

#### **8.17 FORKLIFT OPERATION**

Contractors operating forklifts shall have training and a valid license. Contractors are not allowed to use Office of Facilities Management forklifts. The use of internal combustion engine equipment (propane, diesel) indoors is discouraged.

Do not operate forklifts if certification has expired. When parked, keep the forks or platform in the lowered position. When traveling, forklifts or platforms must be in a lowered position. Never allow anyone to stand on or pass under elevated forklifts. Wear the seat belt provided.

#### **8.18 SAFE MOBILE CRANE OPERATION**

It is mandatory that personnel who operate mobile cranes be trained on the crane to be operated. Operators must be qualified on the cranes and the aerial lifts that they operate and know the clearance requirements for working near overhead-energized lines. All other employees must be

familiar with basic crane safety and also be aware of clearance requirements when directing crane movements.

#### **8.19 HAND TRUCK SAFETY**

Never overload hand trucks or dollies and always be sure the load is properly balanced and is safe to move without fear of tipping or turning over. If needed, secure the load with bungee straps, strap and ratchets, chains or similar devices.

#### **8.20 OVERHEAD WORK**

At the beginning of each job, before initially going on any roof, tank or vessel roof, OEAM must be notified. Contractor must assess the condition of the roof prior to performing work and must evaluate potential exposure to electrical utilities. Certain roofs present special hazards due to their inability to bear weight. Contractors must determine additional safety practices when structural weaknesses are suspected regardless of the materials of construction. Safety harness and fall protection systems must be worn while on any roof. Contractor must submit a detailed safety plan to OEAM prior to any roof repairs. Under no circumstance will debris or material be thrown or dropped from any roofs under OEAM purview. When working overhead, the area below must be roped off with appropriate signage or other equivalent measures taken to protect workers in the area.

#### **8.21 LASERS AND RADIATION SAFETY**

Lasers and radiation may only be used by persons who have completed a recognized course. Radiation-producing equipment includes but is not limited to gauges installed in power plants that detect the presence or absence of coal or water, portable gauges used by construction inspectors, radiography cameras used by licensed Contractors, and other laboratory instrumentation. All radiation areas shall be roped off and marked conspicuously with signs that bear the radiation symbol and the words "caution – radiation area." The barrier rope shall be magenta and yellow.

Contractors shall only use power tools that are double insulated or equipped with grounded power cords. Ground Fault Interrupters (GFI) or other similar devices shall be used in wet or damp locations.

#### **8.23 POWDER ACTUATED TOOLS**

Contractors who operate powder-actuated tools must be properly trained in their use and carry a valid operator's card provided by the equipment manufacturer. Each powder-actuated tool must be stored in its own locked container when not being used. A sign at least 7 inches by 10 inches with bold face type reading "POWDER-ACTUATED TOOLS IN USE" must be conspicuously posted when the tool is being used. Powder-actuated tools must be left unloaded until they are actually ready to be used. Powder-actuated tools must be inspected for obstructions or defects each day before use. All Powder-actuated tool operators must have and use appropriate personal protective equipment such as hard hats, safety goggles, safety shoes and ear protectors.

## 8.24 SCAFFOLD SAFETY

When erecting scaffolds at a height greater than four feet personnel will use appropriate fall restraint equipment. Only trained and qualified personnel shall erect, modify or tear down scaffolds. Scaffolding shall be erected so as not to interfere with equipment. Scaffolding shall be sized to provide adequate working space for personnel and the task(s). Toe boards and mid and top guard rails shall be installed on scaffolds. Scaffolds over or near a walkway shall be securely screened from the toe board to the top guardrail. A scaffold shall not be used unless recently inspected and a scaffold inspection tag is attached and verified before each shift. All scaffolds will be assembled using construction grade, medium quality scaffolding. Access to scaffold platforms shall not require climbing over guardrails.

## 8.25 WINDOW WASHING SAFETY

Window washing shall be conducted using suspended scaffolds (single or two points), a boatswain's chair, or other OSHA compliant method. Scaffolding apparatus shall comply with the requirements of 29 CFR 1910.28. Window washing anchors located on any Office of Facilities Management building shall be verified by the window washing contractors. All reports or inspections of anchor points shall be provided to OEAM.

## 8.26 OBSTRUCTIONS

Access to building entrances, lobbies, corridors, aisles, stairways, doors and exits must be kept free and clear during normal work hours. Access to emergency equipment must be maintained at all times. Contractors must not move or relocate emergency equipment without written approval from OEAM.

## 8.27 BANNED AND RESTRICTED CHEMICALS

### Banned Chemicals

The chemicals listed in the sections below will not be brought on Office of Facilities Management sites.

### ChloroFluoro Compounds

Contractors are not to bring any of the following CFCs onto Office of Facilities Management sites. These CFCs are banned because of their ozone-depleting potential.

Common Name	Chemical Name	Formula	CAS #
CFC-11	Trichlorofluoromethane	$\text{CFCl}_3$	75-69-4
CFC-12	Dichlorodifluoromethane	$\text{CCl}_2\text{F}_2$	75-71-8
CFC-13	Chlorodifluoromethane	$\text{CF}_3\text{Cl}$	75-72-9
CFC-111	Pentachlorofluoroethane	$\text{C}_2\text{FCl}_5$	354-56-3
CFC-112	1,2-Difluorotetrachloroethane	$\text{C}_2\text{F}_2\text{Cl}_4$	76-12-0
CFC-113	Trichlorotrifluoroethane	$\text{CCl}_2\text{F}-\text{CClF}_2$	76-13-1
CFC-114	Dichlorotetrafluoroethane	$\text{CF}_2\text{Cl}-\text{CClF}_2$	76-14-2
CFC-115	Monochloropentafluoroethane	$\text{CClF}_2-\text{CF}_3$	76-15-3

CFC-211	Heptachlorofluoropropane	C <sub>3</sub> Cl <sub>7</sub> F	422-78-6
CFC-212	Hexachlorodifluoropropane	C <sub>3</sub> F <sub>2</sub> Cl <sub>6</sub>	3182-26-1
CFC-213	Pentachlorotrifluoropropane	C <sub>3</sub> F <sub>3</sub> Cl <sub>5</sub>	2354-06-5
CFC-214	Tetrachlorotetrafluoropropane	C <sub>3</sub> F <sub>4</sub> Cl <sub>4</sub>	29255-31-0
CFC-215	1,2,2-Trichloropentafluoropropane	C <sub>3</sub> F <sub>5</sub> Cl <sub>3</sub>	1599-41-3
CFC-216	1,2-Dichlorohexafluoropropane	C <sub>3</sub> F <sub>6</sub> Cl <sub>2</sub>	42560-98-5
CFC-217	Heptafluoropropyl chloride	C <sub>3</sub> F <sub>7</sub> Cl	422-86-6

Phase out of some of these CFCs used in chillers and air conditioning units is currently in progress

### Halons

Contractors' are not to bring any of the following halons onto OEAM site. As CFCs, the halons are banned because of their potential to deplete the stratospheric ozone layer.

Common Name	Chemical Name	Formula	CAS #
Halon 1211	Bromochlorodifluoromethane	CBrClF <sub>2</sub>	353-59-3
Halon 1301	Bromotrifluoromethane	CBrF <sub>3</sub>	75-63-8
Halon 2402	1,2-Dibromotetrafluoroethane	C <sub>2</sub> Br <sub>2</sub> F <sub>4</sub>	25497-30-7

These chemicals are currently permitted for use in fire extinguishers but will be phased out.

### Glycol Ethers

2-methoxyethanol	CAS# 109-86-4
2-methoxyethanol acetate	CAS# 110-49-6
2-ethoxyethyl acetate	CAS# 111-15-9
2-ethoxyethanol	CAS# 110-80-5
Diethylene glycol dimethyl ether	CAS# 111-96-6

### Asbestos

Asbestos-containing material is not allowed in any new construction or for use in building modifications or repairs on any the Facilities Management sites.

### RESTRICTED CHEMICALS

The Contractors' should attempt to find less hazardous substitutes for chemicals listed in this section.

- Confirmed and strongly suspected human carcinogens such as arsenic, beryllium, chromic acid, and radioactive material in unsealed sources;
- Highly toxic and/or highly flammable gasses such as arsine, chlorine, diborane, dichlorosilane, hydrogen, and phosphine;

- Pyrophoric chemicals such as diborane, diethyl telluride, and silane;
- Sensitizers such as ethylenediamine and methylene bisphenyl isocyanate (MDI);
- Unstable and/or highly reactive chemicals that may cause explosions such as hydrazine, liquid oxygen, red phosphorous, and perchloric acid;
- Chemicals on EPA's 33/50 List:

Name	Formula	CAS #	Name	Formula	CAS #
Dichloromethane	CH <sub>2</sub> Cl <sub>2</sub>	75-09-2	Cadmium Compounds	-	-
Chloroform	CHCl <sub>3</sub>	67-66-3	Chromium Compounds	-	-
Carbon tetrachloride	CCl <sub>4</sub>	56-23-5	Cyanide Compounds	-	-
Trichloroethylene	C <sub>2</sub> HCl <sub>3</sub>	79-01-6	Lead Compounds	-	-
1,1,1-Trichloroethane	C <sub>2</sub> H <sub>3</sub> Cl <sub>3</sub>	71-55-6	Mercury Compounds	-	-
Tetrachloroethylene	C <sub>2</sub> Cl <sub>4</sub>	127-18-4	Nickel Compounds	-	-
Methyl Ethyl Ketone	C <sub>4</sub> H <sub>8</sub> O	78-93-3			
Benzene	C <sub>6</sub> H <sub>6</sub>	71-43-2			
Methyl Isobutyl Ketone	C <sub>8</sub> H <sub>12</sub> O	108-10-1			
Toluene	C <sub>7</sub> H <sub>8</sub>	108-88-3			

**\*NOTE: OEAM ENCOURAGES GREEN BUILD PRODUCTS AND CHEMICALS.**

## 8.28 ACRONYMS

**CFS's-** Carbon, Fluorine and Hydrogen (Chlorofluorocarbons)

**MSDS-** Material Safety Data Sheets

**OSHA-**Occupational Safety and Health Act

**ACBM-**Asbestos Containing Building Material

**PCBM-**Potential Asbestos Containing Building Material

**HCFC-** Hydrogen, Fluorine, and Carbon- Hydrochlorofluorocartons

**EPA-**Environmental Protection Agency

**SWPP-**Storm Water Pollution Plan

**NOI-**Notice of Intent

**PCB-**Polychlorinated biphenyl

**GFI-**Ground Fault Interrupters

**CFR-**Code of Federal Regulations

## CONTRACTOR ACKNOWLEDGEMENT

I have received and reviewed OEAM Environmental, Health, Safety and Security Manual. I understand the requirements applicable to activities our company will be performing for OEAM.

I will make sure all employees of our company and our sub-contractors are provided a copy of the Safety Manual and understand and agree to the requirements outlined herein.

Office of Enterprise Assets Management	Contractors' Company Name:
Signature:	Signature:
Typed Name:	Typed Name:
Title:	Title:
Date:	Date:



**City of Atlanta**  
**Office of Enterprise Assets Management**  
**CONTRACTOR CHECK LIST**

The following checklist is provided to assist the contractors with complying with the requirements outlined in the Environmental, Health, Safety and Security (EHSS) Program.

<b>Name of Project Manager/Coordinator:</b>	
<b>Work Site(s)</b>	
<b>and Location(s):</b>	
<b>Applicable Date(s):</b>	
<b>Contractor's Name:</b>	
<b>Contractor's Representative:</b>	
<b>24-hour phone number:</b>	

<b>Action Required</b>	<input checked="checked" type="checkbox"/>
<b>Safety Orientation with EHSS Required?</b>	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, the contractor is scheduled to attend on _____ (month/day) at _____ (time).	
<b>Asbestos review required?</b>	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Lead materials review required?</b>	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Will the work require entry into a permit-required confined space?</b> <ul style="list-style-type: none"> <li>If yes, inform the contractor about known hazards and history of entry operations for each space that they will enter.</li> <li>If yes, the Project Manager/Coordinator will debrief the contractor after the work in these spaces is completed.</li> </ul>	Yes <input type="checkbox"/> No <input type="checkbox"/>
<ul style="list-style-type: none"> <li>Will both the Contractors' and OEAM personnel be working in or near the permit-required confined space(s)?</li> <li>If yes, determine if the Project Manager/Coordinator or the contractor will coordinate entry operations to assure that everyone is aware of any work that is taking place that could affect personnel in the confined space.</li> </ul>	Yes <input type="checkbox"/> No <input type="checkbox"/>
<ul style="list-style-type: none"> <li>If yes, at the end of entry operations, obtain a copy of all canceled permits, and send a copy of this information to EHSS.</li> </ul>	

<p><b>Hazard Communication:</b> Provide the following to the contractor:</p> <ul style="list-style-type: none"> <li>• Information on precautions and safety procedures that must be followed in the work area.</li> <li>• Access to MSDS for hazardous chemicals located in the work area.</li> <li>• Information regarding the labeling system used in the work area.</li> <li>• Emergency procedures to be followed in the event of accidental exposure or release of hazardous chemicals or materials.</li> </ul> <p>Obtain a list of chemicals and MSDS for all chemicals that the contractor will be using. Provide a copy to EHSS for review and approval.</p> <p>The contractor understands that MSDS must be kept on-site for all chemicals used by the contractor on City sites, and that no other chemicals may be brought on-site without prior approval by the Project Manager/Coordinator .</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p><b>Will work be conducted on the roof of a building where fume hood exhausts are located?</b></p> <ul style="list-style-type: none"> <li>• If yes, either coordinate access with OEAM to make sure that fume hoods in the work area are shut down, or inform the contractor of precautions that should be taken.</li> </ul>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p><b>Will work by the contractor involve electrical or mechanical systems?</b></p> <ul style="list-style-type: none"> <li>• If yes, inform the contractor of the Lockout/Tagout procedures by OEAM personnel. Make sure that all the contractor employees in the work area are aware of the Lockout/Tagout procedures.</li> </ul>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p><b>Will Hot Work Permits be required during the Contractor's work?</b> If yes, coordinate Hot Work permits with the City of Atlanta's permitting Department.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>The contractor understands that any hazardous waste generated during the work must be disposed of in a manner consistent with all applicable state and federal regulations, and that prior approval is required for the disposal method and disposal site?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>The contractor representative understands that it is his/her responsibility to relay the above information to other contract employees and his or her subcontractors.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>The contractor has been given the opportunity to ask questions and have those questions answered to his/her satisfaction.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>



**Exhibit E**  
**Dispute Resolution Procedures**

## **DISPUTE RESOLUTION PROCEDURES**

If Service Provider contends it is entitled to compensation or any other relief from City or if there are any disagreements over the scope of Services or proposed changes to the Services, Service Provider shall, without delay and within three (3) days of being aware of the circumstances giving rise to Service Provider's claim, provide written notice of its claim to City. If Service Provider fails to give timely notice as required by this subsection or if Service Provider commences any alleged additional work without first providing notice, Service Provider shall not be entitled to compensation or adjustment for any such work to the extent timely notice was not provided. Such notice shall include sufficient information to advise City of the circumstances giving rise to the claim, the specific contractual adjustment of relief requested and the basis for such request. Within ten (10) days of the date that Service Provider's written notice to City is required under this subsection, Service Provider shall submit a Proposed Change Document relating to the claim meeting the requirements of Subsection 5.3.2 of this Agreement.

The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Service Provider and City each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Services.

If a dispute or disagreement cannot be resolved informally Service Provider Authorized Representative and Authorized City Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Authorized Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

If City and Service Provider are still unable to resolve their dispute, each agrees to consider submitting such dispute to mediation or other acceptable form of alternate dispute resolution.

## **Appendix A**

### **OCC Requirements**



## CITY OF ATLANTA

Kasim Reed  
Mayor

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)

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

### MEMORANDUM

TO: Susan M. Garrett, Interim Chief Procurement Officer  
Department of Procurement

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

RE: SBO Program Documents for Project No.: **FC# 9976 – Citizen's Informational Digital Kiosks**

DATE: September 15, 2017

---

The SBO bid documents with project specific availability for Project No.: **FC# 9976 – Citizen's Informational Digital Kiosks** are enclosed.

The entire OCC package, including both the standard and project specific SBO/EEO sections must be included in the bid documents. Please note that the enclosed package is solely for this project.

If there are questions, please contact me at (404) 330-6013, or Bruce T. Bell at (404) 330-6009.

cc: File  
Carlos Scott, DOP  
Angela Hunter, OCC

September 15, 2017

**RE: Project No.: FC# 9976 – Citizen's Informational Digital Kiosks**

Dear Prospective City of Atlanta Bidder:

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

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

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

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

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

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

### **Implementation of SBO Policy**

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

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

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

### **Determination of Non-discrimination During Bid Process**

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

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



### **OCC Review of Bidder Submissions**

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

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

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

(b) Determination of Violation of SBO Process

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

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

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

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

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

### **Monitoring Of SBO Policy**

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

### **Implementation of EEO Policy**

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

### **Monitoring of EEO Policy**

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

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

**Project No.: FC# 9976 – Citizen’s Informational Digital Kiosks**

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

**238210 Electrical Contractors  
561720 Cleaning Services  
541613 Marketing Consulting Services**

The above referenced dominant NAICS code(s) was/were used for the purposes of calculating the appropriate participation goal(s). However, COA certified SBE Prime proponents responding to this solicitation may consider any COA certified SBE firm(s) that perform a commercially useful function in the execution of the project to be eligible for participation credit.

The availability of certified SBE firms for the procurement categories in the various scopes associated with this project is:

**25% SBE**

OCC will count **COA certified SBE participation** in the form of the value of all commercially useful function scopes of work related to the annual operating expenses incurred by the contract awardee in the execution of the contract. Certified SBE subcontracting firms must have a subcontract agreement in place. The above referenced goal will be measured against **total operating expenses inclusive of any change orders and/or miscellaneous modifications** that may occur throughout the life of the project.

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

### **Equal Business Opportunity Program Reminders**

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

**COVENANT OF NON-DISCRIMINATION**

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

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

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

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

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

Seal

**FORM SBO-1**

## SUBCONTRACTOR CONTACT FORM

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

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

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Ethnicity of SBE Business Ownership (see code below)	SBE 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 (M/FBE and DBE Certifications Will NOT Suffice for This Procurement)

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

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

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

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

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

SMALL BUSINESS OPPORTUNITY SUBCONTRACTOR PROJECT PLAN  
SUBCONTRACTOR/SUPPLIER UTILIZATION

List all Majority, SBE Certified, and Non-SBE Certified subcontractors/suppliers, including lower tiers, to be used on this project.

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

Total SBE% \_\_\_\_\_

Code: AABE - African American Business Enterprise, HABE - Hispanic American Business Enterprise, FBE - Female Business Enterprise, APABE - Asian (Pacific Islander) American Business Enterprise (M/FBE and DBE Certifications Will NOT Suffice for This Procurement)

Proponent's Company Name: \_\_\_\_\_ Project Name: \_\_\_\_\_ FC#: \_\_\_\_\_

Proponent's Contact Number: \_\_\_\_\_ Printed Signature: \_\_\_\_\_ 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.*

## 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.*

**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;
  - (vi) [OCC] ha[s] determined that the listed DBE/[ACDBE] subcontractor is not a responsible contractor;
  - (vii) The listed DBE/[ACDBE] subcontractor voluntarily withdraws from the project and provides to [OCC] written notice of its withdrawal;
  - (viii) The listed DBE/[ACDBE] is ineligible to receive DBE/[ACDBE] credit for the type of work required;
  - (ix) 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;
  - (x) 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: \_\_\_\_\_

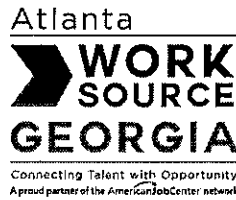
Contract No.: \_\_\_\_\_

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

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

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

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



## **FIRST SOURCE JOBS PROGRAM POLICY STATEMENT**

The WorkSource Atlanta agency has determined that the First Source Jobs Program is **not applicable** for FC# 9976 – Citizen’s Informational Digital Kiosks.

However, it is the policy of the City of Atlanta to provide job opportunities to the residents of the City of Atlanta whenever possible. Although the First Source Jobs Program only applies to Construction Projects, Every contract with the City of Atlanta creates a potential pool of new employment opportunities. All prime contractor proponents are invited to work with the First Source Jobs Program to fill at least 50% of all new entry-level jobs, which arise from this, or any COA project, with residents of the City of Atlanta. For more specific information about the First Source Jobs Program contact the WorkSource Atlanta Agency at (404) 546-3000. This City of Atlanta program is not included in or enforceable through 49 CFR Parts 23 and 26.

**Michael E. Robertson  
First Source Jobs Program  
WorkSource Atlanta  
818 Pollard Boulevard  
Atlanta, Georgia 30315  
(404) 546-3051**

## **Appendix B**

### **Insurance Requirements**

APPENDIX B  
**INSURANCE & BONDING REQUIREMENTS**  
**FC-9976 Citizens Informational Digital Kiosks**

A. Preamble

The following requirements apply to all work under the agreement. Compliance is required by all Contractors/Consultants. **To the extent permitted by applicable law, the City of Atlanta ("City") reserves the right to adjust or waive any insurance or bonding requirements contained in this Appendix B and applicable to the agreement.**

1. Evidence of Insurance Required Before Work Begins

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

2. Minimum Financial Security Requirements

All companies providing insurance required by this Appendix B must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-Casualty. The ratings for each company must be indicated on the documentation provided by Contractor/Consultant to City certifying that all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement have been unconditionally satisfied.

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

- i) Best's rating not less than A-,
- ii) Best's Financial Size Category not less than Class VII, and

- iii) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia.
- iv) All bid, performance and payment bonds must be underwritten by a U.S. Treasury Circular 570 listed company.

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

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

3. Insurance Required for Duration of Contract

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

4. Notices of Cancellation & Renewal

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

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

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

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

5. Agent Acting as Authorized Representative

Each and every agent acting as Authorized Representative on behalf of a company affording coverage under this contract shall warrant when signing the Accord Certificate of Insurance that specific authorization has been granted by

the Companies for the Agent to bind coverage as required and to execute the Acord Certificates of Insurance as evidence of such coverage. City of Atlanta coverage requirements may be broader than the original policies; these requirements have been conveyed to the Companies for these terms and conditions.

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

6. Certificate Holder

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

7. Project Number & Name

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

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

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

9. Mandatory Sub-Contractor/Consultant Compliance

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

10. Self Insured Retentions, Deductibles or Similar Obligations

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



A. Workers' Compensation and Employer's Liability Insurance

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

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

Employer's Liability:

Bodily Injury by Accident/Disease	<b>\$500,000 each accident</b>
Bodily Injury by Accident/Disease	<b>\$500,000 each employee</b>
Bodily Injury by Accident/Disease	<b>\$500,000 policy limit</b>

B. Commercial General Liability Insurance

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

- ☒ Contractual Liability
- ☒ Broad Form Property Damage
- ☒ Premises Operations
- ☒ Personal Injury
- ☒ Advertising Injury
- ☒ Fire Legal Liability
- ☒ Medical Expense
- ☒ Independent Contractor/Consultants/SubContractor/Consultants
- ☒ Products – Completed Operations
- ☒ Additional Insured Endorsement\* (primary& non-contributing in favor of the City of Atlanta)
- ☒ Waiver of Subrogation in favor of the City of Atlanta

C. Commercial Automobile Liability Insurance

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

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

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

D. Builders Risk / Installation Floater

Contractor/Consultant shall procure and maintain policy for Builders Risk/ Installation Floater with all risk coverage to cover damage or destruction to renovations, repairs or equipment being installed or otherwise being handled or stored by the Contractor, including off-site storage, transit and installation. The coverage must be in an amount equal to **100 percent of the value of the contract**. The following indicated extensions of coverage must be provided:

- ☒ All Risk Coverage
- ☒ Operational Testing Coverage included
- ☒ Loss Payee Endorsement

E. Property Coverage/Inland Marine

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

F. Network Security and Privacy Policy or Equivalent

Contractor/Consultant shall procure and maintain a Network Privacy and Security Policy in an amount not less than **\$5,000,000**, covering at a minimum:

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

A copy of the endorsement naming the City of Atlanta as an Additional Insured must be submitted along with the certificate of insurance.

## **Appendix C**

### **General Conditions**

# **FC-9976, Citizens Informational Digital Kiosks**

## **Appendix C**

### **GENERAL CONDITIONS**

#### **GC-1 AGREEMENT AND AGREEMENT DOCUMENTS**

The General Conditions, Special Conditions, Technical Provisions, Drawings, Changes, and all other parts of the Agreement Documents are complementary, and a requirement occurring in one shall be as binding as though occurring in all. The parts of the Agreement are complementary and describe and provide for completion of the Work. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Agreement Documents and in no way affect, and shall not be considered in the interpretation of the provisions to which they refer.

The physical conditions indicated in the Agreement Documents are the result of site investigations by borings and testing at the locations shown.

Execution of the Agreement by the Contractor is a representation that the Contractor has visited the Site, become familiar with the local conditions under which the Work is to be performed, and has correlated personal observations with the requirements of the Agreement Documents.

The intent of the Agreement Documents is to include all items necessary for the proper execution and completion of the Work. Work not specifically covered in the Agreement Documents shall be required if it is consistent therewith and reasonably inferable therefrom as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Agreement Documents in accordance with such recognized meanings.

Without limiting the duty of the Contractor regarding review of the Agreement Documents, in the event of a conflict, error or discrepancy within the Agreement Documents, the Documents shall be given precedence in the following order:

- Change Orders;
- Addenda;
- Bid Form;
- City-Contractor Agreement;
- Special Conditions
- General Conditions;
- Specifications; and
- Plans

Detail Drawings shall govern over general drawings. Figures or dimensions written on drawings shall govern over scaled distances. The details are not to scale.

In case of discrepancy between small-scale detail and large-scale detail, the large-scale detail shall govern. On any of the Plans where a portion of the Work is drawn out and the remainder is shown in outline, the parts drawn out shall apply also to all other like portions of the Work.

Where the word "similar" occurs on the Plans, it shall have a general meaning and not be interpreted as being identical, and all details shall be worked out in relation to their location and their connection with other parts of the Work.

The dimensions and descriptions given on the Plans for adjacent work by others are based on the design Drawings. The Contractor shall verify all as-built conditions and information.

## **GC-2 ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS**

During the progress of the Work, the Engineer may issue additional instructions and Drawings supplemental to those listed in the Special Conditions, showing additional details required for the performance of the Work, and may issue revised Drawings pursuant to Change Orders, or for correction of errors in the Plans. The additional instructions and Drawings thus supplied will become a part of the Agreement Documents. Contractor shall carry out the Work in accordance with the additional instructions and Drawings.

## **GC-3 DEFINITIONS**

The following terms as used in this Agreement are respectively defined, as follows:

Abandonment - Shall mean the permanent termination of the use of, or of service from in or on a facility.

Approved, Directed, Ordered, Or Their Derivatives - Approved, as directed, or ordered by the Engineer or the City, unless otherwise clearly indicated.

Acceptance - The formal written acceptance by the City of the completed Work.

Addenda - Revisions to the Proposal Documents issued by the City prior to opening of the Bid.

Agreement - refers to the executed contract between City and Contracting Entity.

Agreement Documents - The Agreement Documents include the following:

- City-Contractor Agreement;
- Performance Bond;
- Payment Bond;
- Bid Guarantee;

Affidavit;  
Appendix A - Requirements of the Office of Contract Compliance;  
Appendix B – Insurance Requirements;  
Bid;  
Bid Schedule;  
Bid Data;  
General Conditions;  
Technical Specifications for the Project; and  
Plans for the Project.  
Any Addenda thereto or Modification thereof (as defined in the General Conditions).

Agreement Price - The price or prices for the Work or items of Work set forth in the Bid.

Agreement Time - The number of calendar days stated in the Agreement Documents for the Substantial Completion of the Work or Final Completion of the Work, or the achievement of a specific interim milestone, as the context may require.

Amendment – Revision to Contract issued by the City after execution of the formal Contract Agreement.

Application for Payment - The form accepted by the City which is to be used by Contractor in requesting progress payments or final payment and which is to include such supporting documentation as is required in the Agreement Documents.

Bid - The offer or bid of the Bidder submitted in the prescribed manner on the prescribed form setting forth the prices for the Work to be performed together with supplemental information as required by the Agreement Documents.

Bidder - Any person, firm, partnership, corporation or any combination thereof submitting a Bid for the Work.

Bonds - Bid, Performance Bonds, Payment Bonds, and other instruments of security furnished by the Bidder or Contractor and his surety in accordance with the Agreement Documents.

Change - Any change in the Work authorized by the Engineer.

Change Order - A written order to the Contractor, prepared by the Engineer and issued by the City for changes in the Work within the general scope of the Agreement Documents, adjustment of Agreement Prices, extension of Agreement Time, or reservation of determination of a time extension.

City - Shall mean the City of Atlanta, Georgia, and shall include all agencies, establishments or officials of the government of the City.

City-Contractor Agreement - The written agreement for the performance of and payment for the Work, which includes by reference and is a part of the Agreement Documents, executed on behalf of the City and the Contractor.

City's Contractor - Shall mean the legally authorized representative of the City, a private contractor, or other concerned agency performing Work under a direct Agreement with the City.

Construction - Shall mean the actual site preparation, building and all related Work, including facility relocation and adjustments.

Construction Easement/Temporary Easement - Any space or area dedicated to the City or other entity for the purpose of utilities or location of utilities for a specific period of time.

Construction Equipment - Equipment used in the performance of the Work but not incorporated therein.

Contact Person - Contracting Officer designated by the City of Atlanta, Department of Procurement, to submit any questions and suggestions to Ms. Mimie L. Woods, CPPB, Contracting Officer, Department of Procurement, 55 Trinity Avenue, Suite 1790, Atlanta, Georgia 30303.

Contractor - Any firm, partnership, corporation, joint venture, LLC or any combination thereof who enters into a contractual Agreement with the City. This excludes Subcontractors/Sub-consultants. Contractor shall include the union of both the architectural firm and the construction company.

Day - A calendar day of twenty-four (24) hours lasting from midnight one (1) day to midnight the next day.

Department - Shall mean the Department of Parks, Recreation and Cultural Affairs.

Designer - City of Atlanta

Drawings - That part of the Agreement Documents which show the outlines, characteristics and Scope of the Work to be performed. The term is used interchangeably with the word "Plans" and includes Standard Details and Drawings.

Engineer - City of Atlanta or duly authorized representative.

Equipment - Equipment incorporated or to be incorporated in the Work.

Force Account - A method of payment, other than lump sum or unit price, for Work ordered by Change Order and paid for in accordance with force account procedures indicated in "Force Account" Section of the General Conditions.

General Conditions - Requirements pertaining to this Agreement which will be required of the successful Contractors.

General Requirements - Conditions pertaining to this Agreement which will be required of the successful Contractors.

Inspector - The authorized representative of the Engineer assigned to make detailed inspection of any or all portions of the Work or Materials thereof.

Materials - Materials incorporated or to be incorporated in the Work unless otherwise clearly indicated.

Notice of Award - The written notice of the acceptance of the Proposal from the City to a Bidder.

Notice to Proceed ("NTP") - Written communication issued by the City to the Contractor authorizing it to proceed with the Work and establishing the date of commencement of the Agreement time and on which the Contractor shall start to perform his obligations in accordance with the Agreement Documents.

Owner – The City of Atlanta.

Permanent Easement - Any space or area to the City or other entity for the purpose of constructing and/or maintain existing or future utilities.

Plans - That portion of the Agreement Documents describing in drawings, the shape, dimensions and other similar requirements governing the completion of the various portions of the Work, prepared by the Designers and including revisions thereto. The term is used interchangeably with the word "Drawings."

Project - The Project is identified in the City-Contractor Agreement, and is the total construction of which the Work performed under the Agreement Documents may be the whole or a part.

Public Space/Public Right-of-Way - Shall mean the area between private property lines under the jurisdiction of the City, county, state or federal government, including, but not limited to, an alley, roadway, median, sidewalk, public way, or any combination thereof.

Replacement Facility - Shall mean that facility, meeting the Department's current standards, which will be constructed or provided, as a consequence of the rearrangement of an existing facility or portion thereof.

Resident Engineer - The City's Engineer who is assigned to the Project Site or any part thereof.

Responsible Bidder- means any person who has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit which will ensure good faith performance.



Responsive Bidder - means a person who has submitted a bid or offer which conforms in all material respect to the invitation for bids or request for proposals. A Bid which is accurate and complete, with respect to Bid Schedules and information submitted relative to the technical qualifications, financial responsibility and is able to comply with Equal Opportunity and other requirements of the Agreement Documents.

Non-Responsive Bidder - would be the opposite of above-referenced definition.

Scope of Work - See "Work."

Sidewalk Area - Shall mean that portion of a street between the curb lines and the adjacent property lines intended primarily for the use of pedestrians whether paved or in use.

Site of the Work - The areas required for the performance of the Work.

Special Conditions - General Requirements which are unique to a particular Agreement and which supplement, modify or delete items covered in General Conditions.

Specifications - That portion of the Agreement Documents describing in words the technical requirements governing the completion of the various portions of the Work.

Standards - Shall mean those current Standards of Engineering analysis and design, including installation and Material Specifications, which the City utilizes in the design and construction of its own projects.

State - The State of Georgia.

Subcontractor - An individual, firm, corporation or any combination thereof having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work at the site. Subcontractor shall not mean Supplier.

Substantial Completion - The date certified by the Engineer when all or a part of the Work, identified in the Engineer's certification, is sufficiently completed in accordance with the requirements of the Agreement Documents so that the identified portion of the Work can be utilized for the purposes for which it is intended.

Supplier - Any individual, firm, or corporation who supplies material or equipment for the Work (including that fabricated to a special design) but who does not perform labor at the Site.

Temporary Facility - Shall mean a facility constructed for whatever purpose, and not intended to be permanent.

Utility - Shall mean and include all public, private, or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, heat, gas, oil, crude products, water, steam, waste, storm water, and other similar commodities, such as

public owned fire and police signal systems, which directly or indirectly serve the public or any part thereof.

Work - All the services specified, indicated, shown, or contemplated by the Agreement Documents, and furnishing by the Contractor of all Materials, Equipment, labor, methods, processes, construction and manufacturing materials and equipment, tools, plants, supplies, power, water, transportation and other things necessary to complete such services in accordance with the Agreement Documents.

Working Days - Monday, Tuesday, Wednesday, Thursday, and Friday.

Written Notice - A written statement transmitted from one party to an authorized representative of another party in accordance with Section GC-16.

#### **GC-4 APPLICABLE CODES, SPECIFICATIONS, AND STANDARDS**

##### **GC-4.1 General:**

All codes, Specifications, and standards referred to in the Agreement Documents shall mean, and are intended to be, the latest editions, amendment, and revisions of such reference standard in effect as of the date of the Invitation to Bid for this Agreement.

##### **GC-4.2 Standards:**

Reference to a technical society, institution, association, or governmental authority, or pronoun in place of them, is made in the Agreement Documents in accordance with the following abbreviations:

ANSI	American National Standards Institute;
ASTM	American Society for Testing and Materials;
AWS	American Welding Society State;
AASHTO	American Association of State Highway and Transportation Officials;
ACI	American Concrete Institute;
AFBMA	Anti-Friction Bearing Manufacturer's Association;
AI	Asphalt Institute;
AISI	American Iron and Steel Institute;
AISC	American Institute of Steel Construction;
AMCA	Air Moving and Conditioning Association;
API	American Petroleum Institute;
ASME	American Society of Mechanical Engineers;
ASTM	American Society for Testing and Materials;
AWG	American (Brown and Sharpe) Wire Gauge;
AWS	American Welding Society;
AWWA	American Water Works Association;

CRSI	Concrete Reinforcing Steel Institute;
DOT	Georgia Department of Transportation (“ <b>GDOT</b> ”);
EPA	Environmental Protection Agency (Federal);
EPD	Environmental Protection Division (Georgia State);
MARTA	Metropolitan Atlanta Rapid Transit Authority;
NACE	National Association of Civil Engineers;
NFPA	National Fire Protection Association;
NSF	National Sanitary Foundation;
OSHA	Occupational Safety and Health Administration; and
UL	Underwriter’s Laboratories Incorporated.

#### **GC-5 ADEQUACY OF DESIGN**

Before placing its Bid to the City, and continuously after the execution of the Agreement, the Contractor shall carefully study and compare the Agreement Documents and shall at once report to the Engineer, any error, ambiguity, inconsistency or omission that may be discovered, including any requirement which may be contrary to any law, ordinance, rule, regulation, or order of any public authority bearing on the performance of the Work. By submitting its Bid for the Agreement and the Work under it, the Contractor agrees that the Agreement Documents, along with any supplementary written instructions issued by or through the Engineer that have become a part of the Agreement Documents, appear accurate, consistent, and complete insofar as can be reasonably determined. If the Contractor has reported in writing any error, inconsistency or omission, and has promptly stopped the affected Work until instructed, and has otherwise followed the instructions of the Engineer, the Contractor shall not be liable to the City, for any damage resulting from any such errors, inconsistencies or omissions in the Agreement Documents. The Contractor shall perform no portion of the Work at any time without Agreement Documents or, where required, approved shop Drawings, product data, or samples for such portion of the Work.

No claims shall be made by the Contractor based on claims of defects, errors, omissions, ambiguities or inconsistencies in the Agreement Documents which were reasonably discoverable by a review of the Agreement Documents and correlation thereof with the actual conditions at the Project site. No observation of the Engineer or

City, and no inspections, tests or approval shall relieve the Contractor from his obligation to perform the Work in strict conformity with the Agreement Documents.

#### **GC-6 CITY OF ATLANTA ORDINANCES**

The Contractor will be bound by the provisions of all City of Atlanta Ordinances. It is the Contractor's responsibility to be aware of and adhere to all existing or future ordinances which are in effect during the performance of the Agreement.

#### **GC-7 PERMITS AND REGULATIONS**

All applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Agreement throughout, to

the extent that such requirements do not conflict with federal laws or regulations. All Work performed within the right of way of the GDOT shall be in accordance with GDOT regulations, policies, and procedures.

Contractor shall be solely responsible for securing all permits for the Work.

The Contractor must still apply for and secure said permits and schedule inspections. The Contractor shall give all notices and comply with all permits, laws, ordinances, rules and regulations bearing on the conduct of the Work as drawn and specified.

The Contractor agrees to protect and indemnify and hold harmless the City, its offices, agents and employees, the Designer and the Engineer against any claim or liability arising from or based on the violation of any law, ordinance, regulation, order, or decree affecting the conduct of the Work whether by himself or by his agents or employees.

If any permit, license or certificate expires or is revoked, terminated or suspended as a result of any action on the part of the Contractor, it shall neither be entitled to any additional compensation, nor to an extension of Agreement Time.

#### **GC-8 TAXES**

The Contractor shall pay all sales, retail, occupational, service, excise, old age benefit and unemployment compensation taxes, consumer, use and other similar taxes as well as any other taxes or duties on the Material, Equipment and labor for the Work or portions thereof provided by the Contractor which are legally enacted by any municipal, county, federal or state authority or department or agency thereof at the time Bids are received, whether or not yet effective.

All records maintained by the Contractor pertaining to such taxes and levies and payment thereof shall be made available to the City at reasonable times for inspection, audit and copying.

#### **GC-9 ARREARS TO OFFSET DEBT AGAINST CITY**

No money shall be paid by the City upon any claim, debt, demand or account whatsoever, to any person, firm, or corporation who is in arrears to the City for taxes; and the City shall be entitled to counterclaim and offset any such debt, claim, demand or account in the amount of taxes so in arrears, and no assignment or transfer of such debt, claim, demand, or account after the said taxes are due, shall affect the right of the City to so offset the said taxes against the same.

#### **GC-10 LIENS**

The Contractor will furnish the City with evidence, satisfactory to the City that all persons who have done Work or furnished materials in performance of this Agreement have been fully paid, before he shall demand final payment due or unpaid under this Agreement. In case such evidence is not furnished an amount necessary to meet the lawful claims of the persons, aforesaid may be retained from any monies due or that may become due the said Contractor under this Agreement until the lawful claims aforesaid shall be fully discharged or satisfactorily secured,

and it is understood and agreed that the City assumes no obligation nor in any way undertakes to pay such lawful claim out of any funds due or that may become due the said Contractor, out of its own funds.

#### **GC-11 ASSIGNMENTS**

The Contractor shall retain personal control and shall give personal attention to the fulfillment of this Agreement. The Contractor shall not assign the whole or any part of this Agreement or any monies due or to become due hereunder without written consent of the City. In case the Contractor assigns all or any part of any monies due or to become due under this Agreement, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior claims of all persons, firms, and corporations for services rendered or materials supplied for the performance of the Work called for in this Agreement.

#### **GC-12 PATENTS AND ROYALTIES**

The Contractor shall indemnify and hold harmless the City and its officers, agents, servants, and employees from liability or all claims of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Agreement, including its use by the City, unless otherwise specifically stipulated in the Agreement Documents.

If the Contractor uses any design, device or Materials covered by letters, trademarks, patent or copyright, he shall provide for such use by suitable agreement between the City and the holder of such design, device or Material. It is mutually agreed and understood that, without exception, the Agreement Price shall include all royalties or costs arising from the use of such design, device, or Materials in any way involved in the Work. The Contractor or his sureties or both shall indemnify and hold harmless the City, its officers and employees from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or Materials or any trademark or copyright in connection with Work agreed to be performed under this Agreement and the Contractor shall indemnify the City for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the Work or after completion of the Work.

#### **GC-13 OUT-OF-STATE CONTRACTORS**

If the lowest responsive Bidder is a foreign corporation, partnership, or sole proprietorship, the Bidder hereby irrevocably appoints the Secretary of State of Georgia as its agent for services of all legal process for the purpose of this Agreement only, and shall obtain all required certificates and licenses required by the Georgia Law.

## **GC-14 CONTRACTOR'S OBLIGATIONS**

### **A. Supervision and Construction Procedures**

1. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures; and shall coordinate all portions of the Work under the Agreement, subject to overall coordination of the Engineer. All Work under the Agreement shall be performed in a skillful and workmanlike manner.
2. The Contractor shall be responsible to the City for the acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and any other persons performing any of the Work under a contract with the Contractor.
3. The Contractor shall not be relieved from the Contractor's obligations to perform the Work in accordance with the Agreement Documents by the activities or duties of the Engineer in the administration of the Agreement, or by inspections, tests or approvals required or performed under Paragraphs GC-30 or GC-36 by persons other than the Contractor.

### **B. Labor and Materials**

1. Unless otherwise provided in the Agreement Documents, the Contractor shall provide and pay for all labor, Materials, Equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.
2. The Contractor shall, at all times, enforce strict discipline and good order among the Contractor's employees and Subcontractors and shall not employ on the Work any Subcontractor, unfit person or anyone not skilled in the task assigned them. The City may, by Written Notice, require the Contractor to remove from the Work any Subcontractor or employee the City deems incompetent, careless, or otherwise objectionable.
3. All Work at the site shall be performed during regular working hours, except upon the City's written consent given after prior Written Notice.

C. Contractor's Construction Schedule

Contractor shall comply with all scheduling requirements set forth in the Bidding Document.

D. Conditions Affecting the Work

The Contractor shall be responsible for having taken all steps necessary to ascertain the nature and location of the Work and the general and local conditions which can affect the Work or the cost thereof. Failure by the Contractor to fully acquaint himself with conditions which may affect the Work, including but not limited to conditions relating to transportation, handling, storage of Materials, availability of labor, water, roads, weather, topographic and subsurface conditions, other separate contracts to be entered into by the City relating to this Project which may effect the Work of the Contractor, applicable provisions of law; and the character and availability of equipment and facilities needed prior to and during the prosecution of the Work, shall not relieve the Contractor of his responsibilities under the Agreement Documents and shall not constitute a basis for an equitable adjustment under any circumstances. The City assumes no responsibility for any understanding or representations concerning conditions made by any of his officers, agents, or employees prior to the execution of the Agreement, unless such understanding or representations are expressly stated in the Agreement Documents.

**GC-15 RIGHT OF ENTRY**

The City reserves the right to enter the Site of the Work herein contracted for, by such agent or agents as they may elect, for the purpose of inspecting the Work, or for the purpose of installing such collateral Work as the City may desire. The Contractor shall cooperate and coordinate with other contractors prosecuting other phases of the construction. Furthermore, if deemed necessary by the Engineer, the Contractor will incorporate critical access issues of other City contractors directly into the daily Work schedule, such that no phase of the Project(s) are delayed or impacted.

**GC-16 NOTICES**

Except as otherwise expressly provided in the Specifications, any notice, order, instruction, claim, or other written communication required or permitted to be given under this Agreement shall be deemed to have been delivered or received:

1. Upon personal delivery to the Contractor or his authorized representative, or to the City, as the case may be, which delivery may be accomplished by in person hand delivery, or via bona fide overnight express service. Service by facsimile transmission does not constitute notice in accordance with this Agreement.

2. Three (3) days after depositing in the United States mail a letter which is either certified or registered, addressed to the Contractor, the City at his official address, for use under this Agreement, as the case may be.

For purposes hereof, the address of Contractor shall be the business address given in his Bid, and the address of the City shall be as designated in the notice to begin the Work. Either party may change his address at any time by Written Notice to the other of the change.

#### **GC-17 SAFETY PRECAUTIONS AND PROGRAMS**

The City, the Engineer, or their agents, employees or representatives are not responsible for the means, methods, techniques, sequences or procedures utilized by the Contractor, or for the safety precautions and programs in connection with the Work. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

#### **GC-18 SAFETY OF PERSONS AND PROPERTY**

- A. The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:
  1. All employees on the Work and all other persons who may be affected thereby;
  2. All the Work and all Materials and Equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of the Contractor's Subcontractors;
  3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and
  4. The Work of the City or other separate contractors.
- B. The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.
- C. The Contractor shall erect and maintain, as required by existing conditions and the progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.



- D. When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.
- E. The Contractor shall promptly remedy all damage or loss to any property referred to in Clauses GC-18 A.2 and 18 A.3 caused in whole or in part by the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and for which the Contractor is responsible under Clauses GC-18 A.2 and 18 A.3, except damage or loss attributable to the acts or omissions of the City, the Engineer or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Insurance Section of the General Conditions.
- F. The Contractor shall employ a project safety coordinator who shall devote full time toward accident prevention during construction. The qualifications of the project safety coordinator shall be submitted to the City for approval prior to assignment to the Work and shall include:
1. Five (5) years of construction loss control/safety experience in heavy construction;
  2. Registered Professional Engineer in the State of Georgia;
  3. Certified safety professional;

Also advisable:

1. Professional Member of the American Society of Safety Engineers (ASSE);
2. Associate in Risk Management (ARM); and
3. Associate in Loss Control Management (ALCM).

- G. The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

#### GC-18.1 Emergencies

In any emergency affecting the safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency Work, shall be determined as provided in Changes Orders in the General Conditions.

#### GC-18.2 Miscellaneous

- A. The Contractor acknowledges that he is fully aware of the contents and requirements of Official Code of Georgia Annotated § 25-9-1 through § 25-9-12, Blasting or Excavating

Near Underground Gas Pipes and Facilities, any amendments thereto and rules and regulations issued pursuant thereto, and the Contractor shall fully comply therewith. The Contractor agrees and acknowledges that any failure on his part to adhere to said laws, rules and regulations shall not only be a violation of law but shall also be a breach of Agreement and specific violation of the provisions of this Section GC-17 which pertains to safety precautions.

- B. The Contractor acknowledges that he is fully aware of the contents and requirements of Official Code of Georgia Annotated § 46-3-30 through § 46-3-39, Safeguards Against Contact with High Voltage Lines, any amendments thereto and rules and regulations issued pursuant thereto, and the Contractor shall fully comply therewith. The Contractor also confirms that representatives of the Contractor have visited the site of the Work and have taken into consideration the location of all electric power lines on and adjacent to all areas onto which the Agreement Documents require or permit the Contractor to Work, to store materials or to stage operations, and that the Contractor has obtained from the owner or owners of the aforesaid electric power lines advice in writing as to the amount of voltage carried by the aforesaid lines. The Contractor agrees that any failure on its part to adhere to said laws, rules and regulations shall not only be a violation of the law but shall also be a breach of Agreement and specific violation of the provisions under Section GC-17 above, which pertains to safety precautions.
- C. The Contractor acknowledges and agrees that he is the person responsible under the law and that he is the person employing or directing others to perform labor within the meaning of Official Code of Georgia Annotated § 34-1-1, Labor and Industrial Relations. He acknowledges and agrees likewise that he will comply with said law.
- D. The Contractor shall protect all Work, including but not limited to, excavations and trenches, from rain water, surface water, and backup of drains and sewers. The Contractor shall furnish all labor, pumps, shoring, enclosures, and Equipment necessary to protect and keep the Work free of water.
- E. The provisions, terms and conditions of this Section GC-18.2, although very specific, are in no way intended to limit the general requirements hereof or the applicability of laws relating to Work conditions, safety or accident prevention and no specific provision or combination of specific provisions in any of said subsections or in any other parts or sections of the Agreement Documents shall be deemed to limit the obligations or responsibility of the Contractor contained in general provisions with respect thereto or in laws, statutes, acts, rules or regulations which are applicable thereto but which are not specifically referred to in any part of the Agreement Documents.

#### **GC-19 USE OF PREMISES AND CLEAN UP**

- A. Contractor expressly undertakes at no additional cost to the City:

1. To store his Materials, Supplies and Equipment at the Site of the Work in such orderly fashion and in such locations as approved by the Engineer that will not unduly interfere with the progress of the Work or the Work of any other contractors, or the activities of City personnel.
2. To clean up all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that all times the Site of the Work shall present a neat orderly and workmanlike appearance. No items shall be left or discarded elsewhere on the Site, or any other City sites. Items that are to be discarded shall be removed to approved dump areas.
3. To remove all surplus material, false Work, temporary structures, including foundations thereof, plants any description and debris of every nature resulting from his operations, and to put the Site in a neat, orderly condition before final payment. Such final cleanup Work shall be performed within the time specified for completion of Work, with such exceptions as may be approved in writing by the City. Unless otherwise provided in the Specifications, Contractor shall clean any portion of Work for which a separate time for completion is specified and the Site thereof to the above standards within the specified time, with such exceptions as may be approved in writing by the City.
4. To affect all cutting, fitting or patching of his Work required to make the same to conform to the plans and specifications and except with the consent of the City, not to cut or otherwise alter the Work of any other contractor.

B. Contractor shall, at no additional cost to the City:

1. Coordinate all of the Contractor's operations with, and secure approval from, the City before using any portion of the Site. Contractor shall assume full responsibility for any damage to any such land or area, or to the City or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work.
2. Cause its agents and employees to park their vehicles only at locations directed by the City. Contractor's agents and employees shall clean vehicles leaving the Site so as not to muddy roads in the vicinity of the Site. Vehicles shall be brought to the Site only in connection with necessary Work on the Project. In no event shall vehicles be brought to the Site outside normal working hours unless the City gives specific written permission in advance.

3. In connection with Contractor's operations, provide for the free flow of traffic over roads or streets in or adjacent to the Site. The Contractor shall keep roads and streets free from obstructions of any character that might present a hazard or interference with traffic and in such condition that traffic can be adequately accommodated. When operations in connection with the Work necessitates the closing of traffic lanes, Contractor shall arrange in advance with the City, any adjacent property owners affected, and appropriate local authorities for such closing and shall provide as necessary appropriate barricades, signs, markers, flares and other devices as may be required by the Engineer or the local authorities for traffic guides and public safety.
4. Provide facilities for its use and only at locations approved or directed by the City. Unless otherwise specified in the Agreement Documents, Contractor shall provide all power and lighting necessary for its Work, complying in all cases with local and national electrical codes, OSHA regulations, and any other applicable laws. The City shall direct the point or points to be used for service connection. Contractor shall provide telephone facilities for his own use and only at locations approved or directed by the City.
5. Unless otherwise specifically provided in the Agreement Documents, Contractor shall provide his own temporary facilities, including an office and a watertight, closed area for storage and protection of Materials and Equipment to be used for, or incorporated in, the Work, except as specifically agreed in the Agreement Documents. Contractor's shanties, material storage rooms, field offices and the like will be approved by the City and placed in locations designated by the City. If it becomes necessary during the course of the Work for Contractor to relocate his field operations, it will do so in an expeditious manner and at no additional cost.
6. Contractor shall take measures to control the blowing or spreading of dust, smoke, dirt, mud and refuse from its Work to avoid nuisance and inconvenience to others whether on or off the Site. These measures shall be in compliance with, without being limited to, all applicable laws, and shall be subject to the City's approval. Contractor shall furnish all necessary labor and Materials such as water, approved chemicals, and Equipment.
7. Contractor shall be responsible for the removal or drainage of all water interfering with the proper prosecution of his Work. It shall, at all times, assure such drainage and shall not be a nuisance or inconvenience to the City, other contractors or their Work, or the occupants or users of any other public or private area on or off the Site. This paragraph

supplements, and does not supersede, any drainage or dewatering called for elsewhere in the Agreement Documents.

8. Contractor shall not use permanent installed systems without permission of the City. If such permission is granted prior to completion of the Work, Contractor shall restore all parts of the system used by replacing materials, traps, valves, filters, motors, lamps, and the like to the extent that the City considers them to have been damaged or if their usefulness has been impaired or diminished by their temporary use by Contractor.
9. No part of any surface shall be loaded during construction with more weight than it can safely bear at the time. Should damage occur through violation of this requirement by Contractor, it shall be solely liable for such damage and any consequence.
10. It shall be Contractor's responsibility to receive and unload his Materials and pay all charges therefor, including, without limitation, demurrage or charges for delays in loading. Contractor shall instruct vendors or Suppliers making such deliveries exactly where they shall go. Contractor shall constantly keep the City advised of his Material delivery schedule and shall update it as required by the City so that Materials will be available to complete the Work on time. The Contractor shall schedule Material deliveries so as to interfere as little as possible with anyone else's Work on the Project but within the normal Work hours. Contractor shall require that Materials and Equipment delivered shall be identified with Contractor's name, purchase order, and identification numbers, as required by the Engineer. Contractor shall sign for all Materials delivered and shall be responsible for their safekeeping.

## **GC-20 PROTECTION OF AGREEMENT WORK**

Contractor shall be responsible for:

1. Maintenance and protection of Work until final completion and acceptance, including, but not limited to, the storage of Materials and Equipment, erection of temporary structures and provisions for drainage as necessary to protect Work from injury, damage or loss.
2. Any injury, damage, or loss to Work resulting from the action of the elements or any other cause, irrespective of fault or negligence, excepting only such injury, damage, or loss as is caused solely by the negligence of willful misconduct of the City.

3. Protection of its Work and materials and the Work and materials of his Subcontractors from damage or injury from the weather.
4. Exercising due care to avoid injury or damage to the Work of other contractors on site.

Any portion of Work suffering injury, damage, or loss for which Contractor is responsible under 1, 2, 3 or 4, above, will be considered defective and shall be corrected or replaced without additional cost to City.

#### **GC-21 DEFECTS IN THE WORK AND UNAUTHORIZED WORK**

Contractor shall promptly remove from the premises all Work rejected by the City for failure to comply with Agreement Documents, whether incorporated in the construction or not, and Contractor shall promptly replace and re-execute the Work in accordance with Agreement Documents and without expense to City and shall bear the expense of making good all Work of other contractors destroyed or damaged by such removal, or replacement. All removal and replacement Work shall be done at Contractor's expense.

Any Work which may be done or Materials ordered by Contractor prior to receipt of Notice to Proceed, incorporation of previously rejected Work, Work done contrary to or regardless of the instruction of the City, extra Work performed without written authority from the City, Work done beyond the limits shown on the Plans, except as herein specified, or any extra Work done without written authority from the City, will be considered as unauthorized and will not be paid for unless accepted in writing by the City. Work so done may be ordered removed or replaced at the Contractor's expense.

If the Contractor defaults or neglects to carry out all or any part of the Work in accordance with the Agreement Documents, and fails within three (3) days after receipt of Written Notice from the City to commence and continue correction of such default or neglect with diligence and promptness, the City may, after three (3) days following receipt by the Contractor of an additional Written Notice and without prejudice to any other remedy the City may have, make good such deficiencies and may further elect to perform and to complete all or any part of Work thereafter through such means as the City may select, including the use of a new contractor. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor, the cost of correcting such deficiencies. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the City on demand.

Minor, inconsequential defects may be waived in writing by the City, but the City's failure or refusal to exercise such authority shall not be subject to claim by Contractor. If a waiver will result in an appreciable saving of costs to Contractor, including costs of Work in place and potential costs of rejection and replacement under this clause, it will be made only upon an equivalent adjustment in compensation pursuant to Clause GC-42. Other defects may be waived

only as expressly authorized by Special Conditions or Technical Provisions which make provision for relief to the City for such waiver.

## **GC-22 GUARANTEE OF WORK AND MATERIALS**

- A. The Contractor warrants to the City and the Engineer that all materials and equipment furnished under this Agreement will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Agreement Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by any other provision of the Agreement Documents. The Warranties set forth in this paragraph and elsewhere in the Agreement Documents shall survive final acceptance of the Work.
- B. Contractor shall warrant to Owner that all goods or equipment which Contractor is required to purchase under the Agreement and which contain embedded codes, chips, microprocessors, microcontrollers, clock circuits (including integrated circuits), computer operating systems, computer software, custom application programming, or other similar systems/technologies that calculate date or time data shall be Year 2000 Compliant in that they shall correctly and without failure, malfunction, or need for operator intervention, display, calculate, compute, and process date or time data before, during, and beyond December 31, 1999, including leap year.
- C. If within one (1) year after the Date of Final Completion and Final Acceptance of the Work by the City, or within such longer period of time as may be prescribed by law or by the term of any applicable special warranty required by the Agreement Documents, any of the Work is found to be defective or not in accordance with the Agreement Documents, the Contractor shall correct it promptly after receipt of a Written Notice from the City to do so, unless the City has previously given the Contractor written acceptance of such condition. This obligation shall survive both final payment for the Work or designated portion thereof and termination of the Agreement. The City shall give such notice promptly after discovery of the condition.
- D. Without limiting the responsibility or liability of the Contractor under the Agreement, all warranties given by manufacturers on Materials or Equipment incorporated in the Work are hereby assigned by the Contractor to the City. If requested, the Contractor shall execute formal assignments of said manufacturer's warranties to the City. The Contractor shall not obtain any Materials or Equipment under warranties, which do not run directly to the benefit of the City, and all such warranties shall be directly enforceable by the City.
- E. The foregoing warranties, and those contained elsewhere in the Agreement Documents or implied by law, shall be deemed cumulative and not alternative or exclusive. No one or more of them shall be deemed to alter or limit any other.

## **GC-23 TERMINATION OF AGREEMENT**

### **GC-23.1 Bankruptcy or Insolvency**

If Contractor is adjudged as bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for Contractor or for any of his property, or if he filed a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he refuses or fails to prosecute Work or any separable part thereof, with such diligence as will insure its completion within Agreement Time, or if he fails to complete said Work within said time, or if he disregards laws, ordinances, rules, regulations, directions or orders of any public body having jurisdiction over Work or if he disregards the authority of the City, or if he otherwise violates any provision of Agreement Documents, then City may terminate the Agreement without prejudice to any other right or remedy after giving Contractor a minimum of fifteen (15) days to either undertake the Work or pay the City for doing so.

If the surety does not commence performance thereof within fifteen (15) days from the date of the mailing to such surety of notice of termination, City may take over Work and prosecute the same to completion by contract or by Force Account for the account and the expense of Contractor and Contractor and his surety shall be liable to City for any excess cost incurred thereby, and in such event City may take possession of and utilize in completing Work, such materials, appliances, and plant as may be on the Site of Work and necessary therefor.

- (1) Preserve all Materials, Drawings and records and Plans at Site of the Work until notified in writing of those items, which will be used in completing Work.
- (2) Upon receipt of the foregoing notice, remove from Site of the Work all construction materials, equipment and plant not designated for use in such notice.
- (3) Assist the City in making an inventory of all Materials and Equipment in storage at the Site of Work, in route to the Site of Work, in storage or manufactured at other locations, and on order from Suppliers.

### **GC-23.2 City's Right to Stop the Work**

If the Contractor fails to correct defective Work as required by the Agreement Documents, or fails to carry out the Work or supply labor or Materials in accordance with the Agreement Documents, the City, in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the City and the Engineer to stop the Work shall not give rise to any duty on the part of the City to exercise this right for the benefit of the Contractor or any other person or entity.



### GC-23.3 Termination by the City for Contractor Default

- A. If the Contractor is adjudged as bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper Materials, or fails to make prompt payment to Subcontractors or for Materials or labor, or disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a material violation of a provision of the Contract Documents, and fails within seven (7) days after receipt of written notice to commence and continue correction of such default, neglect or violation with diligence and promptness, the City, may, after seven (7) days following receipt by the Contractor of an additional Written Notice and without prejudice to any other remedy the City may have, terminate the employment of the Contractor and take possession of the Site and of all Materials, Equipment, tools, construction Equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods the City may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.
- B. If the unpaid balance of the Agreement Price exceeds the costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the City on demand. This obligation for payment shall survive termination of the Agreement.
- C. Termination of this Agreement pursuant to this GC-23 may result in disqualification of Contractor from bidding on future City contracts.

### GC-23.4 Termination for Convenience of City

- A. The City may, at any time upon thirty (30) days Written Notice to the Contractor, terminate (without prejudice to any right or remedy of the City) the whole or any portion of the Work for the convenience of the City.
- B. If, after the Contractor has been terminated for default pursuant to Paragraph GC-23.3, it is determined that none of the circumstances set forth in Paragraph GC-23.3 exist, then such termination shall be considered a termination for convenience pursuant to Paragraph GC-23.4 A.
- C. If the City terminates the whole or any portion of the Work pursuant to Paragraph GC-23.3 A, then the City shall only be liable to the Contractor for those costs reimbursable to the Contractor in accordance with Paragraph GC-23.4 D, plus a markup of ten percent (10%) on the actual fully accounted costs recovered under Paragraph GC-23.4 D; provided, however, that if it appears that the Contractor would have sustained a loss on the entire Agreement had it been completed, no profit shall be included or allowed hereunder and an appropriate adjustment shall be made reducing the amount of settlement to reflect the indicated rate of loss.

D. If the City terminates the whole or any portion of the Work pursuant to Paragraph GC-23.3 A, the City shall pay the Contractor the amounts determined by the Engineer as follows:

1. An amount for supplies, services, or property accepted by the City pursuant to Clause GC-23.4 C.6, (or sold or acquired pursuant to Clause GC-23.5 C.7), and not heretofore paid for, and to the extent provided in the Agreement such amount shall be equivalent to the aggregate price for such Supplies or services computed in accordance with the price or prices specified in the Contract, appropriately adjusted for any saving of freight or other charges; and
2. The total of:
  - (a) The cost incurred in the performance of the Work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies or services paid or to be paid for under Clauses GC-23.4 D.1 or GC-23.4 D.2(b);
  - (b) The cost of settling and paying claims arising out of the termination of Work under subcontracts or orders, pursuant to Clause GC-23.4 C.5, which are properly chargeable to the terminated portion of the Agreement (exclusive of amounts paid or payable on account of completed items of equipment delivered or services furnished by Subcontractors or vendors prior to the effective date of the notice of termination, which amounts shall be included in the costs payable under (a) above); and
  - (c) The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Agreement and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to this Agreement.

E. The total sum to be paid to the Contractor under this Paragraph GC-23.4 shall not exceed the Agreement Price as reduced by the amount of payments otherwise made, by the Agreement Price of Work not terminated and as otherwise permitted by the Agreement. Except for normal spoilage, and except to the extent that the City shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor, as provided in this Paragraph GC-23.4, the fair value, as determined by the City, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the City, or to a buyer pursuant to Clause GC-23.5 C.7.

#### GC-23.6 General Termination Provisions

- A. If the City terminates the whole or any part of the Work pursuant to Paragraph GC-23.3, then the City may procure, upon such terms and in such manner as the City may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the City for any excess costs for such similar supplies or services. The Contractor shall continue the performance of this Agreement to the extent not terminated hereunder.
- B. Should the Contractor default under any of the provisions of the Agreement, the Contractor and its surety will pay to the City such reasonable attorneys' fees as the City may expend as a result thereof and all costs, expenses and filing fees incidental thereto.
- C. After receipt of a notice of termination from the City, pursuant to Paragraph GC-23.3 or GC-23.4, and except as otherwise directed by the City, the Contractor shall:
  - 1. Stop Work under the Agreement on the date and to the extent specified in the notice of termination;
  - 2. Place no further orders or subcontracts for Materials, services, or facilities, except as may be necessary for completion of such portion of the Work under the Agreement as is not terminated;
  - 3. Terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the notice of termination;
  - 4. Assign to the City in the manner, at the times and to the extent directed by the City, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the City shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
  - 5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the City to the extent the Engineer may require, which approval or ratification shall be final for all the purposes of this Clause;
  - 6. Transfer title and deliver to the entity or entities designated by the City, in the manner, at the times and to the extent, if any, directed by the City, and to the extent specifically produced or specifically acquired by the Contractor for the performance of such portion of the Work as had been terminated:

- (a) The fabricated or unfabricated parts, Work in progress, partially completed supplies, and Equipment, Materials, parts, tools, dies, jigs, and other fixtures, completed Work, supplies and other material produced as part of, or acquired in connection with the performance of the Work terminated by the notice of termination; and
    - (b) The completed or partially completed Plans, Drawings, information, and other property related to the Work;
  - 7. Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the City, any property of the types referred to in Clause GC-23.5 C.6; provided, however, that the Contractor:
    - (a) Shall not be required to extend credit to any buyer; and
    - (b) May require any such property under the conditions prescribed by and at a price or prices approved by the City; and, provided, further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the City to the Contractor under this Agreement or shall otherwise be credited to the price or cost of the Work covered by this Agreement or paid in such other manner as the City may direct;
  - 8. Complete performance of such part of the Work as shall not have been terminated by the notice of termination; and
  - 9. Take such action as may be necessary, or as the City may direct, for the protection and preservation of the property related to the Agreement, which is in the possession of the Contractor and in which the City has or may acquire an interest.
- D. The Contractor shall preserve and make available to the City, at all reasonable times at the office of the Contractor, but without direct charge to the City, all its books, records, documents and other evidence bearing on the costs and expenses of the Contractor and any subcontractor under the Agreement and relating to the Work terminated hereunder, all to the extent provided in GC-54 hereof, or, to the extent approved by the Engineer, photographs, microphotographs, or other authentic reproductions thereof.
- E. In arriving at any amount due the Contractor pursuant to Paragraph GC-23.3 or GC-23.4, there shall be deducted:
- 1. All unliquidated advance or other payments on account theretofore made to the Contractor applicable to the termination portion of this Agreement;

2. Any claim which the City may have against the Contractor;
  3. Such claim as the Engineer determines to be necessary to protect the City against loss because of outstanding or potential liens or claims; and
  4. The agreed price for, or the proceeds of sale of, any Materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of Clause GC-23.5 C.7 and not otherwise recovered by or credited to the City.
- F. If the termination, pursuant to Paragraph GC-23.4, be partial, the Contractor may file with the City a claim for an equitable adjustment of the price or prices specified in the Agreement relating to the continued portion of the Agreement (the portion not terminated by the notice of termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any claim by the Contractor for an equitable adjustment under this Clause must be asserted within thirty (30) days from the effective date of the notice of termination.
- G. The Contractor shall refund to the City any amounts paid by the City to the Contractor in excess of costs reimbursable under Paragraph GC-23.4.
- H. The City may, at its option and the Contractor's expense, have costs reimbursable under Paragraph GC-23.4 audited and certified by independent certified public accountants selected by the City.
- I. The Contractor shall be entitled to only those damages and that relief from termination by the City as specifically provided in Article GC-23.

#### **GC-24 SUSPENSION OF WORK**

- A. The City may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the Work for such period of time as he may determine to be appropriate for the convenience of the City.
- B. If the performance of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the City or Engineer in the administration of the Agreement, or by failure of any one of them to act within the time specified in the Agreement (or if no time is specified, within a reasonable time), an equitable adjustment shall be made for any increase in Contractor's costs of performance (excluding profit) and any increase in the time required for performance of the Work necessarily caused by such unreasonable suspension, delay, or interruption and the Agreement modified in writing accordingly. However, no equitable adjustment shall be made under this Paragraph for any suspension, delay, or interruption (pursuant to Paragraph GC-23.2), or for which an equitable adjustment is provided or excluded under any other provision of the Agreement Documents and no adjustment shall be made to the extent that performance would have

been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor. No claim for an equitable adjustment under this Paragraph shall be allowed (1) before the Contractor shall have notified the City in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from an order issued "GC 23 A") and as practicable, the extent of such suspension, delay or interruption; and (2) unless the claims for increased costs or increased time required are asserted in writing to the City within ten (10) days after the termination of such suspension, delay, or interruption.

## **GC-25 COMMENCEMENT AND PROSECUTION OF THE WORK**

Contractor shall, within ten (10) days after receipt from the City of a written Notice to Proceed, commence Work to be done under this Agreement. Contractor shall diligently prosecute Work and all portions thereof to completion within the times specified therefor. The capacity of Contractor's construction and manufacturing equipment and plans, sequence and methods of operations, and forces employed, including management and supervisory personnel, shall be such as to insure completion of Work within the specified time.

It is expressly understood and agreed by and between Contractor and City that Agreement Time for the completion of Work described herein is a reasonable time, taking into consideration the average climate and economic conditions and other factors prevailing in the locality of the Work.

## **GC-26 TIME**

### **GC-26.1 Progress and Completion**

- A. All time limits stated in the Agreement Documents are of the essence of the Agreement.
- B. The Contractor shall begin the Work within ten (10) days after the issuance of the Notice to Proceed. The Contractor shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion of the Work and Final Completion within the times stated in the Agreement Documents, including the Project Network Schedule.

### **GC-26.2 Delays and Extensions of Time**

- A. Except as otherwise specifically provided under Paragraph GC-24 (Suspension of Work) or Paragraph GC-42 (Change Orders), the Contractor shall not be entitled to payment or compensation of any kind from the City for direct, indirect, or impact damages, including, but not limited to, costs of acceleration arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by the Contractor for hindrances or delays due solely to fraud or bad faith on the

part of the City or its agents. The Contractor shall be entitled only to extensions in the time required for performance of the Work as specifically provided in the Agreement.

- B. The Agreement Time shall be adjusted only for Changes in the Work (pursuant to Paragraph GC-42), Suspension of Work (pursuant to Paragraph GC-24) and excusable delays (pursuant to Subparagraph GC-26.2 C). In the event the Contractor requests an extension of the Agreement Time, he shall furnish such justification and supporting evidence as the City may deem necessary for a determination as to whether the Contractor is entitled to an extension of time under the provisions of the Agreement. The City, after receipt of such justification and supporting evidence, shall make its findings of fact and decision thereon shall advise the Contractor in writing thereof. If the City finds that the Contractor is entitled to any extension of the Agreement Time, the City's determination as to the total number of days' extension shall be based upon the currently approved Project Network Schedule and on all data relevant to the extension as described in the Agreement Documents. Such data will be included in the next periodic updating of the schedule. The Contractor acknowledges and agrees that actual delays (due to changes, suspension of Work or excusable delays) in activities which according to the schedule, do not affect the Agreement Time, do not have any effect upon the Agreement Time and therefor will not be the basis for a change therein.
- C. Subject to other provisions of the Agreement Documents, the Contractor may be entitled to an extension of the Agreement Time (but not increase in the Agreement Price) for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor or its Subcontractors as follows:
  - 1. Labor strikes including strikes affecting transportation, that do, in fact, directly and critically affect the progress of the Work; however, an extension of Agreement Time on account of an individual labor strike shall not exceed the number of calendar days of said strike;
  - 2. Acts of God, tornado, fire, hurricane, blizzard, earthquake, typhoon, or flood that damage completed Work or stored materials;
  - 3. Abnormal weather; however, the Agreement Time will not be extended due to normal inclement weather. Unless the Contractor can substantiate to the satisfaction of the City that there was greater than normal inclement weather considering the full term of the Agreement Time using a ten (10) year average of accumulated record mean values from climate to logical data compiled by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration for Atlanta, Georgia, and that such alleged greater than normal inclement weather actually delayed the Work or portions thereof which had an effect upon the Agreement Time, the Contractor shall not be entitled to an extension of time;

4. Acts of the public enemy, acts of the state, federal, or local government in its sovereign capacity, and acts of another separate contractor in the performance of a agreement with the City relating to the Project; and
  5. Any act or neglect of the City or the Engineer or any of their employees.
- D. Other than pursuant to Paragraph GC-24 and Paragraph GC-42, no claims for extension of time for delay, disruption, interference or hindrance of the Work hereunder, or any portion thereof, shall be valid unless a notice of a claim is filed with the City within ten (10) days of the first instance of such delay, disruption, interference or hindrance and, in addition, unless a written statement of the claim as hereinafter described is filed with the City within twenty (20) days of such first instance; otherwise, all such claims are waived by the Contractor. In the case of a continuous cause of delay, only one written claim is necessary.
- E. Such notice of claim must clearly identify the instance of delay, disruption, interference or hindrance and an estimate of the probable effect of such delay on the progress of the Work.
- F. Such statement of the claim must provide all information required by the scheduling requirements of the Agreement Documents and further provide the following specific information:
1. Nature of the delay;
  2. Date (or anticipated date) of commencement of delay;
  3. Activities on the construction schedule affected by the delay, and/or new activities created by the delay and their relationship with existing activities;
  4. Identification of person(s) or organization(s) or event(s) responsible for the delay;
  5. Anticipated extent of delay; and;
  6. Recommended action to avoid or minimize the delay.
- G. The City shall receive and process such claims for extensions of time in accordance with the procedures set forth in Paragraphs GC-42 and GC-43, except that any Change Order issued shall only amend the time for completion.
- H. The failure of the Contractor to file any claims for extension of time within the time limits prescribed herein and in the form and manner required hereby shall be deemed a



material prejudice to the interests of the City and shall constitute an absolute waiver of the claim and the right to file or thereafter prosecute the same.

- I. If no schedule or agreement is made stating the date upon which written interpretations as set forth in the Agreement Documents shall be furnished, then no claim for delay shall be allowed on account of failure to furnish such interpretations until fifteen (15) days after demand is made for them, and not then unless such claim is reasonable.
- J. To the extent that Contractor is entitled to additional compensation for delay, disruption, interference or hindrance under this Paragraph GC-26.2, an absolute condition precedent to such entitlement shall be strict compliance with all requirements and procedures for entitlement to an extension of time hereunder.

### **GC-26.3 Limitation of Damages**

Under no circumstances shall Contractor be paid for extended home office overhead, lost use of capital, impairment of bonding capacity, loss of potential profit or any other indirect costs.

## **GC-27 RESPONSIBILITY FOR COMPLETION**

### **GC-27.1 Duty to Accelerate**

Subject to the other provisions of the Agreement Documents, the Contractor shall furnish such manpower, Materials, facilities, and Equipment and shall work such hours, including night shifts, overtime operations and Sunday and holidays, as may be necessary to ensure the prosecution and completion of the Work in accordance with the approved and currently-updated Project Network Schedule. If Work actually in place falls behind the currently updated and approved Project Network Schedule, and it becomes apparent from the current schedule that the Work will not be completed within the Agreement Time, the Contractor agrees that it will, as necessary or as directed by the City, take some or all of the following actions at no additional cost to the City to improve their progress:

- A. Increase manpower in such quantities and crafts as will substantially eliminate, in the judgment of the City, the backlog of Work;
- B. Increase the number of working hours per shift, shifts per working day, working days per week, the amount of equipment or any combination of the foregoing, sufficiently to substantially eliminate in the judgment of the City, the backlog of Work;
- C. Reschedule activities to achieve maximum practicable concurrency of accomplishment of activities; and
- D. Any other measure required by the schedule requirements of the Special Conditions.

In addition, the City may require the Contractor to submit a proposed revised Project Network Schedule demonstrating its program and proposed plan to make up lag in scheduled progress and to ensure completion of the Work within the Agreement Time. If the City finds the proposed plan not acceptable, the City may require the Contractor to submit a new plan. If the actions taken by the Contractor or the second plan proposed are not satisfactory, the City may require the Contractor to take any of the actions set forth in this Paragraph GC-27.1 without additional costs to the City to make up the lag in scheduled progress.

#### GC-27.2 Acceleration by City's Forces

Failure of the Contractor to substantially comply with the requirements of Paragraph GC-27.1 may be considered grounds for a determination by the City and/or the Engineer that the Contractor is failing to prosecute the Work with such diligence as will ensure its completion within the time specified. In such case, upon forty-eight (48) hours prior Written Notice to Contractor, City shall have the right to furnish such additional labor and Materials as may be required to comply with the schedule and the Contractor shall be liable for such costs incurred by City.

#### GC-27.3 Set-Off of Acceleration Costs

Any monies due to the City under this Section may be set-off by the City against monies due from the City to the Contractor.

#### GC-27.4 Acceleration Remedies Cumulative

The remedies of the City set out in this Section GC-27 are in addition to, and without prejudice to, all other rights and remedies of the City including those stated elsewhere in the Agreement Documents.

### **GC-28 WORKING DRAWINGS, SHOP DRAWINGS, DATA ON MATERIAL AND EQUIPMENT, SAMPLES, AND LICENSES**

#### GC-28.1 General

- A. Contractor shall submit to the Engineer for review and exception, if any, such working Drawings, Shop Drawings, test reports and data on Materials, licenses, and Equipment (hereinafter in this article called data), and material samples (hereinafter in this article called samples) as are required for the proper control of Work, including but not limited to, those working Drawings, Shop Drawings, data and samples specifically required elsewhere in the Specifications and Agreement Documents. Submittals are required for any product that becomes a part of or affects the permanent Work.

- B. Data on Materials and Equipment include, without limitation, Materials and Equipment lists, catalog data sheets, cuts, diagrams and similar descriptive material. Materials and Equipment lists shall give, for each item thereon, the name and location of the Supplier or manufacturer, trade name, catalog reference, size, finish and all other pertinent data.
- C. It is the duty of the Contractor to check all Drawings, data and samples prepared by or for him before submitting them for review. Drawings and schedules shall also be checked and coordinated with the Work of all trades involved. Drawings and other submittals originating from Subcontractors will be reviewed and checked similarly by the Contractor. Pursuant to this required review, Contractor shall indicate his approval, before they are submitted for review by the City, by affixing his stamp of approval, properly initialed and dated. All submittals shall be referenced to the applicable item, section or division of the Specifications.
- D. The Engineer's review of Drawings, data and samples submitted by Contractor will cover only general conformity to the Specifications, external connections, and dimensions which affect the installation. The Engineer's review and exception, if any, will not constitute an approval of dimensions, quantities, and details of the Material, Equipment, device, or item shown.
- E. Contractor shall not begin any of the Work covered by a Drawing, data, or a sample returned for correction until a revision or correction thereof has been reviewed and returned to him.
- F. The Construction schedule shall include respective dates for the submission of shop and work Drawings, the beginning of manufacture, testing and installation of Materials, Supplies and Equipment.
- G. Acceptable submittals will be marked "No Exceptions Taken." Submittals requiring minor corrections before the Material or Equipment is acceptable will be marked "Make Corrections Noted." The Contractor may order, fabricate or ship the items included in the submittal, provided the indicated corrections are made. Drawings must be resubmitted for review prior to installation of Equipment or use of Materials.
- H. Submittals marked "Amend and Resubmit" must be revised to reflect required changes and the initial review procedure repeated.
- I. The "Rejected - See Remarks" notation is used to indicate Materials or Equipment that are not acceptable. Upon return of a submittal so marked, the Contractor shall repeat the initial review procedure utilizing acceptable Materials or Equipment.
- J. Drawings on other submittals not bearing the Engineer's "No Exceptions Taken" notation shall not be issued to Subcontractors or utilized for construction purposes. No Work shall be done or equipment installed without a drawing or submittal bearing the "No

Exceptions Taken" notation. The Contractor shall maintain at the job site a complete set of Drawings and other submittals bearing the Engineer's stamp.

- K. In the event the Contractor obtains the City's approval for the use of Equipment other than that which is called for in the Agreement Documents, the Contractor shall, at his own expense and using methods approved by the City, make any changes to structures, piping and electrical work that may be necessary to accommodate this equipment.
- L. Contractor shall submit all Drawings and schedules sufficiently in advance of construction requirements to provide no less than thirty (30) calendar days for checking and appropriate action.
- M. The review of Drawings and schedules will be general, but approval shall not be construed: (a) as permitting any departure from the Agreement requirements; (b) as relieving Contractor of responsibility for any errors, including details, dimensions, and Materials; and (c) as approving departures from details furnished by the City, except as otherwise provided herein.

#### GC-28.2 Shop Drawings

- A. When used in the Agreement Documents, the term "Shop Drawings" shall be considered to mean fabrication drawings, wiring and control diagrams, cuts, or entire catalogs, pamphlets, descriptive literature, and performance and test data. The Drawings shall be submitted using standard transmittal forms in accordance with detailed instructions furnished by the City. A separate transmittal sheet shall be used for reference to each item, section or division of the Specifications.
- B. The Contractor shall submit six (6) sets of each Shop Drawing for review. On electrical and instrumentation and control submittals the Contractor shall submit six (6) copies of each for review.
- C. Each Shop Drawing shall include the following:
  - 1. Number and title of the submittal;
  - 2. Date of Drawing or revision;
  - 3. Name of Project;
  - 4. Name of Contractor and or Subcontractor submitting Drawing and with its seal of approval;
  - 5. Specification title and number; and
  - 6. Clear identification of contents and location of the Work.
- D. Drawings for Work on utility facilities, streets and other facilities, which are constructed for owners other than the City, shall be coordinated so that information required by these owners is included on the Shop Drawings for their facilities.

- E. If Drawings show variations from Agreement requirements, Contractor shall describe such variations in his letter of transmittal. If acceptable, proper adjustment in Agreement shall be implemented where appropriate. If Contractor fails to describe such variations, he shall not be relieved of the responsibility for executing the Work in accordance with Agreement, even though such Drawings have been reviewed.
- F. If the Drawings or schedules as submitted describe variations per Subparagraph GC-28.2 C.5, and show a departure from the Agreement requirements which the City finds to be in the interest of the City and to be so minor as not to involve a change in Agreement Price or time for performance, the City may return the reviewed Drawings without noting an exception.
- G. If no exceptions are taken by the City, each of the Shop Drawings will be identified by being so stamped and dated. Shop Drawings stamped "Rejected - See Remarks" and with required corrections shown, will be returned to Contractor for correction and re-submittal. On re-submittals, Contractor shall direct specific attention, in writing or on resubmitted Drawings, to revisions other than the corrections requested by the City on previous submissions. Contractor shall make any corrections required by the City. If Contractor considers any correction indicated on the drawings to constitute a change to the Agreement Drawings or Specifications, Contractor shall give Written Notice thereof to the City. At least two (2) copies of Drawings or data submittals will be returned to Contractor.
- H. When the Drawings or data submittals have been completed to the satisfaction of the City, Contractor shall carry out the construction in accordance therewith and shall make no further changes therein except upon written instructions from the City.
- I. After final review in which there are no exceptions noted or referenced, and before final payment is made, Contractor shall furnish to the City two (2) sets of record Shop Drawings, all clearly revised and completed and brought up to date, showing the permanent construction as actually made and marked FINAL/AS-BUILTS. One (1) set of such Shop Drawings shall be either drawn in ink on tracing cloth, or reproduced on mylar from which clear prints can be made. The other set could be a complete paper print.
- J. Contractor shall be responsible for and bear all cost of damages which may result from the ordering of any material or from proceeding with any part of Work prior to the review, without exception, by the City of the necessary Shop Drawings.

#### GC-28.3 Working Drawings

- A. When used in the Agreement Documents, the term "Working Drawings" shall be considered to mean Contractor's plans, including a detailed narrative, for temporary structures such as temporary bulkheads, support of open cut excavation, support of utilities, ground water control systems, forming and false work; for underpinning; and for

such other work as may be required for construction but does not become an integral part of the Project.

- B. Copies of Working Drawings shall be submitted to the City where required by the Agreement Documents or requested by the City in accordance with subparagraph GC-28.2 C.2, and shall be submitted at least thirty (30) calendar days in accordance with subparagraph GC-28.1 L. (unless otherwise specified by the Engineer) in advance of their being required for Work.
- C. Working Drawings shall be signed by an engineer licensed to practice in the State of Georgia and shall convey, or be accompanied by, calculation of other sufficient information to completely explain the structure, machine, or system described and its intended manner of use. Prior to commencing such Work, Working Drawings must have been reviewed to the satisfaction of the City, and each Working Drawing identified by the City with the Engineer's stamp of "No Exception Taken." Review of the Working Drawings by the Engineer will not relieve Contractor in any way from his responsibility with regard to the fulfillment of the terms of Agreement. All risks of error are assumed by Contractor. The City and the Engineer shall have no responsibility therefor.

#### GC-28.4 Record Agreement Drawings

Contractor shall keep one (1) record copy of all Agreement Documents, reference documents, and all technical submittals at the Site in good order and annotated to show all changes made during the construction process. Record Drawings shall be updated and kept current on a monthly basis by the Contractor. The record Drawings will be reviewed monthly by the City prior to approval of the Contractor's monthly pay request. At the completion of the Project and before final payment is made, Contractor shall furnish the City with one (1) set of electronic reproducible documents, reflecting all changes herein described. Changes to the reproducible Drawings shall be drafted in a neat and workmanlike manner similar to the drawings as originally provided to the Contractor. Upon request, the City will provide one (1) set of sepia of the original Agreement Drawings, at no cost to Contractor.

#### GC-28.5 Samples

- A. Contractor shall furnish, for the approval of the City, samples required by the Agreement Documents or requested by the City. Samples shall be delivered to the City as specified or directed. Contractor shall prepay all shipping charges on samples. Materials or Equipment for which samples are required shall not be used in Work until approved by the City.
- B. Each sample shall have a label indicating:
  - 1. Name of Project;
  - 2. Name of Contractor and Subcontractor;
  - 3. Material or Equipment Represented;

4. Place of Origin;
  5. Name of Producer and Brand (if any); and
  6. Location in Project.
- C. Contractor shall prepare a transmittal letter in triplicate for each shipment of samples containing the information required in Subparagraph 2 above. He shall enclose a copy of this letter with the shipment and send a copy of this letter to the City. Approval of a sample shall be only for the characteristics or use named in such approval and shall not be construed to change or modify any Agreement requirement. Substitutions will not be permitted unless they are considered to be to the City's best interest.
- D. Approved samples not destroyed in testing shall be sent to the City or stored at the Site of the Work. Approved samples of the hardware in good condition will be marked for identification and may be used in the Work. Materials and Equipment incorporated in the Work shall match the approved samples. Samples which failed testing or were not approved will be returned to Contractor at its expense, if so requested at time of submission.
- E. The Contractor will provide architectural samples to the City in a composite color board format for review and color coordination. These samples shall be of the precise Material and color specified and of sufficient size for comparison to other material samples.
- F. Custom colors and coatings may be required to complete the Project within acceptable architectural standards. The Contractor shall comply with the Architect's selection and provide Materials that precisely match the approved samples.

#### GC-28.6 Operation and Maintenance Manuals

- A. Operation and maintenance manuals are operator and shop maintenance instructions that enable an average journeyman mechanic without prior knowledge of the specific type, make, or model to maintain and repair the Equipment. The manuals shall include repair parts data that provides positive identification for an item of the complete Equipment without reference to the manufacturer or dealer facilities to identify ordering part numbers in support of procured Equipment.
- B. Preparation Instructions: An operation and maintenance manual set is required to cover each specific make, model, year and serial numbered piece of Equipment scheduled for delivery under terms of this Agreement. It is the intent of these requirements to use standard commercial manuals modified to meet the minimum Specification set forth herein. The manuals shall provide instructions, illustrations, and other associated data for operations, preventive and corrective maintenance and repair, including a complete catalog of parts used in the assembly of the end item. The manuals provided shall contain complete instructions and information as set forth below for all equipment components, assemblies, subassemblies, attachments, and accessories manufactured by the prime

Supplier or those purchased by the prime Supplier from other sources and assembled in the finished end item.

- C. Contents of Operation and Maintenance Manuals: The contents of complete set of manuals shall include, at a minimum, the following:
- (a) Table of Contents;
  - (b) Operating instructions;
  - (c) Preventive maintenance, service, and corrective maintenance or repair instructions;
  - (d) Parts list with recommended quantity; and
  - (e) Approved Shop Drawing(s).
- D. Binding and Delivery: The manual(s) shall be bound or otherwise securely enclosed in an oil and moisture resistant binder(s). Each binder cover shall indicate in bold type the manufacturer's name, contract number, model number, and serial number of the unit or equipment. Five (5) copies of the manual(s) shall be delivered with the Shop Drawings and must be approved with the Shop Drawings.

#### **GC-29 CONTRACTOR'S TITLE TO MATERIALS**

No Materials or supplies for the Work shall be purchased by Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sales contract or other agreement by which all interest is retained by the seller. Contractor warrants that he has good title to all Materials and supplies used by him in the Work, free from all liens, claims or encumbrances.

#### **GC-30 INSPECTION AND TESTING OF MATERIALS**

All Materials and Equipment used in the construction of the Project shall be subject to adequate inspection and testing in accordance with accepted standards and the requirements of the Agreement Documents. The laboratory of inspection agency shall be provided by the Contractor and approved by the City for these tests. Additional tests performed after rejection of Materials or Equipment shall be at the Contractor's expense.

Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with Specifications and suitability for uses intended, but failure to inspect Materials will in no way waive the City's right to reject defective Materials or to condemn Work in which they are used. The Contractor will provide for travel expenses, factory performed testing and set up costs for the factory inspection and testing of all major architectural elements, mechanical, electrical or process equipment. A factory visit for both designers' representative and City's representative may be required. No funds for stored materials or fabrication items will be released until the factory inspection is completed and a certified pay request is submitted.



All tests performed by Contractor shall be witnessed by the City unless the requirement therefor is waived in writing. Contractor shall give the City reasonable advance notice of all such tests. The City may perform additional tests on materials tested by Contractor, and Contractor shall furnish samples for this purpose as requested.

### **GC-31 MATERIALS AND EQUIPMENT**

Contractor shall furnish all Materials and Equipment to be incorporated into the Work. Only Materials and Equipment conforming to the requirements of the Drawings and Specifications shall be incorporated into the Work. Except as otherwise specified or approved in specific instances, all such Materials and Equipment shall be new and unused and of the highest quality available. Materials and Equipment for which no specific requirements are given in the Drawings or specifications shall be those best suited for the specified use, considering function, strength, durability and resistance to corrosion. Manufactured Materials and Equipment shall be obtained from sources which are currently manufacturing such Materials or Equipment, except as otherwise approved in specific instance.

If so ordered by the Engineer, sources of Materials shall be approved by him before delivery from those sources is commenced. Approval of a source of Materials may be withdrawn by the Engineer at any time that the Materials delivered from that source are found to be defective, and Contractor shall thereupon cease all deliveries from that source.

Manufacturer's warranties, certifications, guarantees, manuals, instruction sheets and parts lists provided with materials and equipment shall be furnished to the Engineer before final payment is made.

### **GC-32 STORAGE OF MATERIALS AND EQUIPMENT**

Materials and Equipment to be incorporated in the Work shall be stored in such a manner as to preserve their quality and fitness for incorporation in the final project. They shall be stored in a manner acceptable to the Designer and Owner and in an accessible facility that allows inspection. If at any time the City determines that any Materials or Equipment are not being properly stored, they may issue a directive to correct the storage or reject the Material for incorporation in the Project under GC-23. No additional payment will be made for storage requirements. No payment will be made on Materials stored improperly or replaced due to improper storage.

No Equipment may be stored outside without the express written permission of the City on that specific piece of equipment stating that unit's unique I.D. numbers.

For any Equipment or units that have rotating parts or bearing assemblies and must be stored for more than sixty (60) days, the Contractor shall set up a schedule to manually rotate the units every fifteen (15) days and maintain a log certification to preserve the service life and warranties.

## **GC-33 REPORTS, RECORDS, AND DATA**

### **GC-33.1 General**

Contractor shall submit to the City schedules of quantities and costs, progress schedules, reports, estimates, records, certificates, and other data as the City may request concerning Work performed or to be performed under this Agreement.

### **GC-33.2 Payroll Reports**

Contractor shall be required to furnish weekly payroll reports to the City, certifying conformance with the wage rates listed in the Specifications. The requirement applies to Contractor and its Subcontractors. These reports shall show completed payroll information, and such certificates and statements of compliance as required in the Federal Labor Standards and by the City relative to payrolls. The schedule of wage rates shall be posted on a bulletin board available to the workers.

### **GC-33.3 Contractor's Daily Reports**

As soon as Contractor has started Work on the Project, he shall submit to the City written daily reports of the Work performed the previous day by its employees, including the employees of Subcontractors.

The reports shall be prepared by Contractor's representative and shall bear his signature. Each report shall contain the following information:

- (a) Work items and references to payment items;
- (b) Work forces and construction Equipment employed;
- (c) Materials and Equipment installed; and
- (d) Work performed by Subcontractors.

## **GC-34 CONTRACTOR'S SUPERVISION OF THE WORK**

### **GC-34.1 General**

Contractor shall provide competent, efficient supervision of the Work. All Work shall be performed in a skillful, workmanlike and orderly manner, and Contractor and his supervisory personnel shall enforce this requirement at all times.

### **GC-34.2 Contractor's Representative**

Before beginning Work, Contractor shall notify the City in writing of one (1) person within his organization, satisfactory to the City, who shall have complete authority to supervise Work, to receive orders from the City, and to represent and act for Contractor in all matters arising under

Agreement. Contractor shall not remove his representative without first designating, in writing, a new representative, who meets all of the foregoing requirements.

Contractor's representative shall normally be present at or about the Site of Work while the Work is in progress. Before leaving the Site of Work for any extended period, whether or not the Work is in progress, Contractor's representative shall notify the City, in writing, of the designation of an assistant, satisfactory to the City, with full authority to act for the representative in his absence, or shall make substitute arrangements satisfactory to the City. When neither Contractor, his representative, nor the representative's authorized assistant is present on a part of Work, the superintendent, foreman, or other employee or Contractor in charge of that part of the Work shall be an authorized representative of the Contractor for the purposes set forth above.

### **GC-35 SUBCONTRACTORS AND SUPPLIERS**

Contractor may utilize the services of specialty Subcontractors on those parts of Work that, under normal contracting practices, are performed by specialty Subcontractors, except as otherwise required by the Agreement Documents.

In addition to the designation of Subcontractors in the proposal documents, Contractor shall submit to the City a listing of the Subcontractor name, full address and telephone number, contact person, class or trade of work, list of similar past projects worked on, including reference names, telephone numbers, and other information as applicable to that contractor and the provisions of the Agreement Documents. Contractor shall make Subcontractor submittals sufficiently in advance of construction requirements to provide the Engineer and City with no less than sixty (60) days for review and appropriate action.

Neither Contractor nor any Subcontractor shall award Work to any Subcontractor without prior written approval of the City. Contractor shall be as fully responsible to the City for the acts and omissions of all Subcontractors and Suppliers, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him. Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to Work to bind Subcontractors and Suppliers to Contractor by the terms of the General Conditions and other Agreement Documents, insofar as applicable to the work of Subcontractors and Suppliers, and to give Contractor the same power as regards terminating any subcontract that the City may exercise over Contractor under any provisions of the Agreement Documents.

Nothing contained in this Agreement shall create any contractual relation between any Subcontractor, Supplier and the City. The Contractor shall not award more than seventy-five percent (75%) of the Work to Subcontractors.

## **GC-36 INSPECTION OF WORK**

### **GC-36.1 General**

All of Work shall be subject to inspection by the City for conformity with the Drawings and Specifications. Working Drawings, Shop Drawings, data on Materials and Equipment, and material samples will be reviewed under Clause GC-28. Inspection of the balance of Work will be in accordance with this article, unless otherwise expressly indicated. Material tests conducted pursuant to Clause GC-30 and all other specified tests will be considered part of the inspection process and shall be subject to all of the provisions of this clause.

### **GC-36.2 Engineer's Access to Work**

The Engineer shall have access to, and may inspect Work at all times and places. He shall have access to, and may inspect, Materials and Equipment to be incorporated in Work at all times at the place of production or manufacture and at the shipping point, as well as at Site of Work.

The Engineer will designate the Materials and Equipment to be inspected at the place of production or manufacture. Contractor shall give the Engineer fourteen (14) days advance written notice of the start of manufacture or production of Materials and Equipment so designated. The Engineer's failure to so designate Materials and Equipment shall in no way limit his right to inspect them at the place of production or manufacture.

Contractor's Materials and Equipment contracts shall include a notice to the Supplier or Subcontractor of the inspection requirements of this clause.

### **GC-36.3 Cooperation And Safety**

The Engineer will perform inspections in such manner as not to delay Work unnecessarily, and Contractor shall perform the Work in such manner as not to delay inspection unnecessarily. Contractor shall give the Engineer reasonable advance notice of operations requiring special inspection of a portion of Work at any time by reasonable advance notice to the Engineer.

If requested by the Engineer, the Contractor shall submit written certification, in a form approved by the Engineer, that he has inspected the Work prior to inspection by the Engineer, and that it complies with the Agreement Documents.

Contractor shall bear any additional inspection costs resulting from Contractor's failure to have a portion of Work ready for inspection at the time requested by Contractor for its inspection, or from reinspection of any previously rejected portion of Work where the defects requiring such rejection were due to the Contractor's fault or negligence. Such costs may be deducted, in whole or in part, from any money due or that may become due Contractor under this Agreement.

Contractor shall furnish the Engineer all reasonable facilities for his safety and convenience in inspecting the Work, at all times and at all places where inspection may take place. If the

Engineer finds that conditions are unsafe for inspection at a particular location, he may, upon notice to Contractor, refuse to inspect in that location until such conditions are corrected. Contractor shall bear any additional costs incurred to permit subsequent inspection of any portion of Work covered or completed at the location before correction of the conditions, whether or not such portion of Work is found to meet Agreement requirements.

#### GC-36.4 Inspection of Covered or Completed Portions of Work

If so ordered in writing by the Engineer, Contractor shall uncover, remove, tear out, or disassemble, in whole or in part, any covered or completed portion of Work to permit its inspection. If that portion of Work is found to be defective or unauthorized, Contractor shall bear all costs of uncovering, removal, tearing out, or disassembly, and the provisions of Clause GC-21 shall apply. If such portion of the Work is found to conform with the Agreement Drawings and Specifications, it shall be recovered, replaced, reassembled, or otherwise restored by Contractor to its original condition and, except as stated below, all Work required in connection with the inspection will be considered extra Work under Clause GC-41. If such portion of Work was covered or completed without the approval of the Engineer, where such approval was required by the Specifications or required in advance by the Engineer, Contractor shall bear all costs involved in the inspection, notwithstanding conformance of such portion of Work with the Agreement Drawings and Specifications.

#### GC-36.5 Inspection Not a Waiver or Acceptance

Neither the inspection nor lack of inspection of any portion of the Work, nor the presence or absence of the Engineer during performance of any of the Work, nor acceptance of the whole or any part of the Work by the Engineer, nor any possession taken by the City or its employees shall operate as a waiver of any provision of this Agreement or any power herein reserved to City or any rights to damages herein provided. Should an error in the estimate, or conclusive proofs of defective Work or materials used by or on the part of Contractor be discovered after the final payment has been made, the City reserves the right to claim and recover by process of law such sums as may be sufficient to correct the error or to make good the defects in the Work and Materials.

#### GC-36.6 Correction of Non-Compliant Work

If the Contractor is found to have Work that fails to meet the intent of the Plans and Specifications, or is in other aspects unsuitable he may be issued a notice of non-compliance on that portion of the Project Work. The Contractor shall remedy the defective or incorrect Work within twenty-four (24) hours unless a different schedule is agreed to in writing. This non-compliance status may be issued on temporary installations that fail to protect the Work or site conditions.

## **GC-37 CITY'S AUTHORITY**

The City shall have authority to decide all questions as to interpretation and fulfillment of Agreement requirements, including, without limitation, all questions as to the prosecution, progress, quality and acceptability of Work. The City may implement and enforce its decisions by orders, instructions, notices, and other appropriate means.

Any oral decision, order, instruction, or notice of the City will be confirmed in writing. Such confirmation shall state the specific subject of the decision, order, instruction, or notice and its date, time, place, author and recipient. All communications between City and Contractor or its representative will be through the City.

Inspectors may be appointed to inspect all Materials used and all Work done. Such inspection may extend to all or any part of the Work and to the preparation or manufacture of the Materials to be used. Inspectors will not be authorized to approve or accept any portion of the completed Work or to issue instructions contrary to the Plans and Specifications. Inspector will have authority to reject defective Material and to suspend Work that is being improperly done, subject to the final decision of the City. Inspector shall, in no case, act as foreman or perform other duties for Contractor.

## **GC-38 PROGRESS PAYMENTS**

### **GC-38.1 Progress Estimates**

The Contractor shall submit to the Engineer for approval, in the form directed or acceptable to the Engineer, a complete schedule of values of the various portions of the Work, including quantities and unit prices, aggregating the Agreement Price (except in cases and to the extent that accepted unit prices form the basis of payment). The schedule shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction and to coordinate with the progress schedule required under the Special Conditions, and shall be supported by such data to substantiate its correctness as the Engineer may require. Each item in the schedule of values shall include its proper share of overhead and profit. An unbalanced breakdown providing for overpayment to the Contractor on items of Work which would be performed first will not be approved. The schedule of values, when approved by the Engineer, shall be used only as a basis for the Contractor's monthly request for payment and shall not be used for additions to or deductions from the Agreement Amount.

Subject to the provisions of this clause, Contractor shall prepare a written report for the Engineer's approval, on City furnished forms, of the total amount of value of Work performed under the proposal items of Agreement to the time of such estimate and in accordance with the progress report based on the approved schedule.

No progress estimate or payment shall be considered an approval or acceptance of any work performed, material, or equipment furnished. All estimates and payment will be subject to correction in subsequent estimates and the final estimate.

Progress payments will be made for all completed activities and for suitably stored materials as herein provided.

#### GC-38.2 Progress Payments

Upon completion of each monthly estimate of Work performed and Materials furnished, the Engineer, subject to the provisions of the Agreement Documents, shall recommend payment to the Contractor for the estimated value of such Work, Materials and Equipment, less the amount of all prior payments and all liquidated damages and other amounts to be deducted or retained under the Agreement. Contractor will be paid one hundred (100%) percent, less retainage, of the cost of Materials received and properly stored but not incorporated into the Work. Payments for Materials or Equipment stored on the Site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Engineer to establish the City's title to such Materials or Equipment or otherwise protect the City's interest, including applicable insurance. No progress estimate or payment needs to be made when, in the Engineer's judgment, the increment in the estimated value of Work performed and Materials and Equipment furnished since the preceding estimate is less than Ten Thousand Dollars (\$10,000.00). Contractor will be paid on or before the twenty-fifth day following receipt of the approved estimate.

#### GC-38.3 Retention from Progress Payments

The amounts retained by the City from each progress payment shall be as follows:

- A. Withholding ten percent (10%) of the estimated value of the Work performed until the progress payments including retainage total fifty percent (50%) of the Agreement Price.
- B. After progress payments, including retainage, total fifty percent (50%) of the Agreement Price, no more retainage shall be withheld, provided that the Engineer determines that the Contractor is making satisfactory progress to ensure completion of the Work within the times specified therefor, and that the Contractor is performing the Work within the requirements of the Agreement Documents.
- C. Upon receipt of written request from the Contractor, the City may reduce retainage to the Contractor for payment of retainage to Subcontractors who have completed their Work. If such retainage is released, the Contractor shall furnish the City with an affidavit certifying that all monies due the Subcontractor have been paid. If the City determines that the released retainage has not been paid to the Subcontractor, the amount released shall be reinstated.
- D. The City may reinstate ten percent (10%) withholding if the Engineer determines that the Contractor is not making satisfactory progress to ensure completion of the

work and all portion thereof within the times specified therefor, or if there is other specific cause for such withholding.

#### GC-38.4 Additional Payment Conditions

- A. The submission and approval of the Project Network Schedule and periodic updates thereof, as required by the Schedule requirements of the Special Conditions, shall be an integral part and basic element of the application upon which Progress Payments shall be made. The Contractor shall be entitled to Progress Payments only as determined from the currently approved and updated schedule.
- B. The Contractor shall promptly pay each Subcontractor upon receipt of payment from the City, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's Work. The Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments to their Subcontractors in similar manner.
- C. The City may, on request and at its discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the City on account of Work done by such Subcontractor.
- D. Neither the City nor the Engineer shall have any obligation to pay or to see to the payment of any Subcontractor, except as may otherwise be required by law.
- E. No certification of Progress Payment (any progress payment), or any partial or entire use or occupancy of the Project by the City, shall constitute an acceptance of any Work not fully in accordance with the Contract Documents.
- F. Any and all funds paid to Contractor pursuant to the City-Contractor Agreement are hereby declared to constitute trust funds in the hands of Contractor, to be applied first to the payment of claims of Subcontractors, laborers, and Suppliers arising out of the Work, to claims for utilities furnished and taxes imposed, and to the payment of premiums on surety and other bonds and on insurance, before application to any other purpose. Whenever required by the Engineer, it shall be the duty of Contractor to file with the Engineer a verified statement, in form satisfactory to the Engineer, certifying the amounts then due and owing from Contractor for labor and materials, setting forth therein the names of the person whose charges or claims for labor or materials are unpaid, and the undisputed amount due to each respectively.
- G. No payments made hereunder by City to Contractor prior to Final Payment shall be deemed conclusive as to the actual value of the Work performed by Contractor or of Contractor's performance of the Agreement.



- H. City reserves the right to issue any Progress Payment and Final Payment by check jointly to Contractor and any Subcontractor or Supplier at City's option.
- I. Should the City fail to issue any Progress Payment within sixty (60) days of approval of an acceptable monthly estimate of Work performed and Materials furnished, annual interest on the payment amount may accrue at the Prime Rate, plus one percent.
- J. The Prime Rate shall be based on that published in the *Wall Street Journal* on the first business day of January or June, whichever has most recently passed, of the current year. This clause shall supersede the Georgia Prompt Payment Act and any modifications or successors to it. Nothing stated herein shall invalidate any other conditions of Progress Payment approval.

#### GC-38.5 Payments Withheld

- A. The City may decline to approve payment and may withhold any payment, in whole or in part, to the extent necessary to reasonably protect the City from loss because of:
  - 1. Defective Work not remedied;
  - 2. Third party claims filed or reasonable evidence indicating probable filing of such claims;
  - 3. Failure of the Contractor to make payments properly to Subcontractors, or for labor, Materials or Equipment;
  - 4. Reasonable evidence that the Work cannot be completed for the unpaid balance of the Agreement Price;
  - 5. Damage to the City or another contractor;
  - 6. Reasonable evidence that the Work will not be completed within the Agreement Time;
  - 7. Persistent failure to carry out the Work in accordance with the Agreement Documents;
  - 8. Failure of the Contractor to fully comply with the Schedule requirements of the Special Conditions;
  - 9. Failure to comply with insurance and safety requirements; or
  - 10. Failure to keep current "As-Built" Records.
- B. When the grounds in Paragraph GC-38.5 A., above are removed, payment shall be made for amounts withheld because of them.

#### GC-39 SUBSTANTIAL COMPLETION ("Substantial Completion")

##### GC-39.1 Certificate of Substantial Completion

When the Contractor considers that the Work, or a designated portion thereof which is acceptable to the City, is Substantially Complete as defined in Paragraph GC-3, the Contractor shall prepare for the Engineer a list of items to be completed or corrected. The failure to include any items on

such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Agreement Documents. When the Engineer, on the basis of an inspection, determines that the Work or designated portion thereof is Substantially Complete, they will then prepare a Certificate of Substantial Completion of the Work which shall establish the Date of Substantial Completion of the Work, shall state the responsibilities of the City and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance and shall fix the time within which the Contractor shall complete the items listed therein. The Certificate of Substantial Completion of the Work shall be submitted to the City and the Contractor for their written acceptance of the responsibilities assigned to them in such Certificate.

#### GC-39.2 Retainage Adjustment

Upon Substantial Completion of the Work or designated portion thereof, and upon application by the Contractor and approval by the Engineer, the City shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Agreement Documents and in accordance with the City-Contractor Agreement.

#### GC-39.3 Warranty Commencement

Warranties required by the Agreement Documents shall commence on the Date of Final Completion of the Project or designated portion thereof unless otherwise provided in the certificate of Substantial Completion of the Work or designated portion thereof.

#### GC-39.4 Waiver of Claims

The acceptance of Substantial Completion payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the application for payment for the Substantial Completion payment, and except for the retainage sums due at final acceptance.

### **GC-40 FINAL PAYMENT ("Final Payment")**

#### GC-40.1 Certificate for Final Payment

Following the Engineer's issuance of the certificate of Substantial Completion of the Work or designated portion thereof, and the Contractor's Completion of the Work, the Contractor shall forward to the Engineer a Written Notice that the Work is ready for final inspection and acceptance, and shall also forward to the Engineer a final Application for Payment. Upon receipt, the Engineer will make the necessary evaluations. When the Engineer finds the Work acceptable under the Agreement Documents and the Agreement fully performed, the Engineer will issue a certificate for Payment that will approve the Final Payment due the Contractor.

#### GC-40.2 Final Payment Conditions

Neither the Final Payment nor the remaining retainage shall become due until the Contractor submits to the Engineer:

1. An affidavit that all payrolls, bills for Materials and Equipment, and other indebtedness connected with the Work have been paid or otherwise satisfied;
2. Consent of surety, if any, to Final Payment;
3. Clear title for all vehicles and/or trailers, if any, to remain as City property;
4. Complete set of as-built record Drawings;
5. Documentation for all state sales taxes paid by Contractor including completed State Department of Revenue Refund forms and all necessary back up documentation required by the Department of Revenue;
6. If required by the Engineer or City, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Agreement, to the extent and in such form as may be designated by the Engineer or City. If any Subcontractor refuses to furnish a release or waiver required by the Engineer or City, the Contractor may furnish a bond satisfactory to the City to indemnify the City against any such loss. If any lien or indebtedness remains unsatisfied after all payments are made, the Contractor shall refund to the City all monies that the latter may be compelled to pay in discharging such lien, or other indebtedness including all costs and reasonable attorneys' fees; and
7. As a condition of Final Payment on the Project, the Contractor shall, prior to final payment, complete and submit to the City, all of the invoice documentation and the State of Georgia Revenue Department forms required to obtain the sales tax refund on all applicable equipment expenditures. This submittal shall include the certified forms and auditable back-up necessary to substantiate the expenditures for State refund.

#### GC-40.3 Waiver of Claims by City

The making of Final Payment shall, after the Date of Substantial Completion of the Project, constitute a waiver of all claims by the City except those arising from:

1. Unsettled liens and third party claims against the City or the Engineer;
2. Faulty or defective Work appearing after Substantial Completion of the Work;
3. Failure of the Work to comply with the requirements of the Agreement Documents;

4. Terms of any special warranties required by the Agreement Documents; or
5. Damages incurred by the City resulting from lawsuits brought against the City, the Engineer, or their agents, employees, or representatives because of actions or omissions on the part of the Contractor, his Subcontractors, Suppliers, or any of their employees, agents, or representatives.

#### GC-40.4 Waiver of Claims by Contractor

The acceptance of Final Payment shall, after the Date of Substantial Completion of the Project, constitute a waiver of all claims by the Contractor, except those previously made in writing and identified by the Contractor as unsettled at the time of the Final Application for Payment.

### **GC-41 CHANGES AND EXTRA WORK**

#### GC-41.1 Authority For Changes

The Engineer may make changes in the Drawings or Specifications and in the quantities of Work to be done under the Agreement.

#### GC-41.2 Change Orders

Without invalidating the Agreement, the Engineer may at any time, or from time to time, by written order, order additions, deletions, or revisions in the Work. These will be authorized by Change Orders. Upon receipt of the Change Order, Contractor shall promptly proceed with the Work involved. If any price or scope of the Work or an extension or shortening of the Agreement Time is involved, an equitable adjustment will be made within the Change Order. In the event the Agreement Price is increased by Change Order, the penal amount of the Payment and Performance Bonds shall be increased as provided for in Appendix B. All changes in the Work authorized by Change Order shall be performed under the applicable Conditions of the Agreement Documents.

#### GC-41.3 Written Notice

The Engineer may, at the request of Contractor, issue interpretations, clarifications and other instructions as to the intent of the Agreement Documents, in the form of Written Notices. The Engineer may also, at any time, make changes in the details of the Work by issuance of a Written Notice. Upon receipt of such a Written Notice containing interpretations clarifications and other instructions, Contractor shall proceed with the Work and comply with the Written Notice unless Contractor believes that such Written Notice entitles him to a Change in Agreement Price or Time or both.

Should Contractor believe that such Written Notice entitles him to change in Agreement Price or Time, or both, he shall give the Engineer notice in writing thereof within seven (7) days after receipt of the Written Notice. Thereafter within thirty (30) days, Contractor shall document the

basis for the change in Agreement Price or Time. The Engineer shall render a timely, written decision on the Contractor's request for a change in Agreement Price or Time. Should the Engineer determine that the Contractor is not entitled to a change in Agreement Time or Price, the Contractor shall proceed as directed upon receipt of the Engineer's decision. Failure to proceed shall constitute a breach of Agreement and shall be a cause for the termination of the Agreement. Request for a Change Order arising out of a Written Notice will not be considered without the attachment thereto of a copy of the referenced Written Notice. No claim by Contractor will be allowed if asserted after Final Payment under this Agreement.

#### GC-41.4 Extra Work

Extra Work consists of new and unforeseen Work determined by the Engineer not to be covered by any of the various items for which there is a proposal price or by combination of such items.

#### GC-41.5 Variation In Quantities

Wherever the estimated quantities of work to be done and materials to be furnished under this Agreement are shown in any of the documents including the Bid, they are given for use in comparing proposals and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by City to complete the Work contemplated by this Agreement, and such increase or diminution shall in no way vitiate this Agreement, nor shall any such increase or diminution give cause for claims or liability for damages.

### **GC-42 CHANGE ORDERS**

#### GC-42.1 General

The Agreement Price may only be changed by a Change Order. Each change will be set forth in a Change Order prepared by the Engineer and approved by City. Change Order will specify (a) all additional work to be done and work to be omitted, if any, in connection with the change; (b) the basis of compensation to the Contractor for additional or omitted work; and (c) any adjustment of the time of completion of the Work. If the Engineer determines that a change requiring additional Work will cause delay in completion of Work, the Engineer will grant an equitable time extension for the changed Work, or a subsequent Change Order may be issued at such time as the extent of such delay can be determined.

Upon receipt of a Change Order, Contractor shall comply therewith and perform each item of Work set forth therein, furnishing all labor, Material, and Equipment necessary therefor, in the same manner as if such Work were originally included in the Agreement. In the absence of a Change Order, Contractor shall not be entitled to payment or an extension of the time of completion on account of any changes made.

### GC-42.2 Methods Of Payment

The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Agreement Price shall be determined by the following method which is most advantageous to City, as determined by the Engineer:

- A. Where the Work involved is covered by unit prices contained in Agreement Documents, by application of unit prices to the quantities of the items involved;
- B. By mutual acceptance of a lump sum, based on a detailed breakdown of anticipated costs plus Contractor's fee for overhead, small tools, and profit. The Contractor and all Subcontractors shall be entitled to the same fees as specified in Section GC-42.2 C. and GC-42.3 E; or
- C. On the basis of the actual cost of the Work plus a Contractor's fee for overhead, small tools and profit. This method of payment is herein referred to as Force Account Work, and is further described in GC-42.3. Contractor's fee for Force Account Work performed by his own forces shall be twenty percent (20%) for direct labor and payroll burdens; five percent (5%) for all purchased material; and Contractor's fee for subcontracted work shall be as defined in Section GC-42.3 E.

### GC-42.3 Force Account Work

When authorized by a Change Order, Contractor may perform Work on a Force Account basis and will be paid actual costs and a fee for properly allocated charges which may include labor, bond premium, supplies and Materials, Equipment and subcontract billings, incurred in the performance of such Force Account Work as more particularly described below:

- A. Labor: For all labor and for foremen in direct charge of the specific operations, Contractor shall receive the actual rate of wage in effect at the time the Force Account Work is performed for each and every hour that said laborer and foreman are actually engaged in such Work. Said agreed rate shall be no higher than that regularly paid the employee. A foreman shall not be used where there are fewer than two (2) laborers employed, except with the written consent of the Engineer. Contractor shall receive the actual costs paid to or in behalf of workmen, by reason of fringe benefits, including but not limited to, social security contribution, unemployment, excise and payroll taxes, workmens' compensation, health and retirement benefits, sick leave, vacation and holiday pay. Expenses of working after hours, on holidays or on Saturdays and Sundays, shall be included to the extent authorized by the Engineer. Subsistence and travel allowance where required by collective bargaining agreements shall be included.

The charges for labor shall include all classifications through foremen when engaged in the actual and direct performance of the Work. They shall not include charges for such overhead personnel as assistant superintendents, superintendents, office personnel, timekeepers, and maintenance mechanics.

B. Bonds and Insurance: For bonds and insurance premiums or increases thereto necessitated by the Force Account Work, Contractor shall receive the actual cost to which no percent shall be added. Contractor shall furnish satisfactory evidence of the rate or rates paid for such bond and insurance.

C. Materials: For materials accepted by the Engineer and used as an integral part of the finished Work, Contractor shall receive the actual cost of such Materials delivered on the Work, including transportation charges paid by him, exclusive of machinery rentals as hereinafter set forth.

If Materials are procured by Contractor by a method that is not a direct purchase from and a direct billing by the actual Supplier, the cost of such Material shall be deemed to be the lowest current wholesale price at which such Materials available in the quantities concerned and delivered to the site of the Work.

For other Materials used in the construction that are not an integral part of the finished Work, such as, but not limited to, sheeting, false Work and form lumber, Contractor shall be reimbursed in the amount agreed upon by the Engineer before such Work is begun. The salvage value of such material will be taken into consideration in determining the amount of reimbursement.

D. Equipment: Contractor will be paid for the use of Contractor owned or rented Equipment at seventy percent (70%) of the suggested monthly rental rates listed for such Equipment in the Rental Rates for Construction Equipment Blue Book (published by Data Quest), except as modified below, which edition shall be the latest edition in effect at the time of commencement of the Force Account Work. Hourly rental rates shall be calculated by dividing the listed monthly rates as modified above by 176 hours. The rental rate for Equipment used in excess of eight (8) hours per day, shall be at the rate of fifty percent (50%) of the hourly rates as calculated above. The rental rates for standby Equipment, when authorized by the Engineer, shall be at the rate of fifty percent (50%) of the hourly rate for Equipment in use eight (8) hours per day. No payment of rentals for standby Equipment will be made for more than eight (8) hours per working day and no payment will be made for weekend days or holidays. If it is deemed necessary by Contractor to use equipment not listed in the applicable edition of the Blue Book Rental Rates, Contractor shall furnish the necessary cost data and paid invoices to the Engineer for his use in establishment of such rental rate(s). Equipment must be in good operating condition. The rental rates paid as above provided shall include the cost of fuel, oil, lubricants, supplies, small tools, necessary attachments, repairs and maintenance of all kinds, depreciation, storage, insurance, and all incidentals. Equipment operators will be paid for as stipulated in subparagraph (A) of Clause GC-42.3.

The rental time to be paid for Equipment on the Work site shall be the time the Equipment is required for the Force Account Work being performed. The time

shall include the time required to move the Equipment to location of the Force Account Work and return it to the original location or to another location, requiring no more time than that required to return it to its original location. Moving time will not be paid for if the Equipment is used at the site of the Force Account Work on other than such Force Account Work. Loading and transporting costs will be allowed, in lieu of moving time, when the Equipment is moved by means other than its own power. No payment for loading and transporting will be made if the Equipment is used at the site of the Force Account Work on other than such Force Account Work. Compensation will not be allowed while Equipment is inoperative due to breakdown.

For the use of Equipment moved in on the Work and used exclusively for Work paid for on a Force Account basis, providing the Engineer has agreed to said move, Contractor will be paid the Equipment use rates provided for in this clause, for the cost of transporting the Equipment to the location of the Work and its return to its original location, and for the cost of loading and unloading the Equipment, all in accordance with the following provisions:

1. The cost of transporting Equipment shall not exceed the applicable minimum established rates by the State of Georgia Public Service Commission.
2. The Equipment use period shall begin at the time the Equipment is unloaded at the site of the Force Account Work, shall include each day that the Equipment is at the site of the Force Account Work, excluding Saturdays and Sundays and other legal holidays unless the Force Account Work is performed on such days, and shall terminate at the end of the day on which the Engineer instructs Contractor to discontinue the use of such Equipment. The maximum time to be paid per day will not exceed eight (8) hours unless the Equipment is in operation for a longer time.

- E. Subcontract Work: Where the Change Order applies to Work being performed under a subcontract, reimbursement, including fee for small tools, overhead and profit for the Subcontractor's Work performed on a Force Account basis shall be computed in precisely the same manner as if performed by Contractor as indicated in GC-42.2 C. One additional allowance of five percent (5%) of the Subcontractor's total costs will be granted to Contractor for overhead and profit regardless of the tier of the Subcontractor.

If the Subcontractor elects to contract out Change Order Work to a third (or lower) level contractor or Supplier of purchased Equipment, he shall not be entitled to fees, overhead or profit for such third (or lower) level work or Materials.



The City reserves the right to direct the Contractor to contract directly with third (or lower) level subcontracts and Suppliers of purchased Equipment in order to avoid paying multiple fees, overhead and profit for such third (and lower level) Subcontractors and Suppliers of purchased Equipment.

If similar work is not being performed at the Work site, and if required by City, Contractor shall obtain three (3) competitive proposals for the requirements of the Change Order and the Agreement Documents from Subcontractors acceptable to the Engineer. Selection of the Subcontractor shall be subject to the approval of the Engineer and the City.

- F. Compensation: The compensation as set forth above shall be received by Contractor as payment in full for Work done on a Force Account basis. At the end of each day, Contractor's Representative and Inspector shall compare records of the Work performed including classification of all laborers, ordered on a Force Account basis.
- G. Statements: No payment will be made for Work performed on a Force Account basis until Contractor furnishes the Engineer itemized statements of the cost of such Force Account Work detailed as to the following:
1. Labor - name, classification, date, daily hours, total hours, rate, and extension of each laborer and foreman;
  2. Equipment - size, type, identification number, dates, daily hours, total hours, rental rate, and extension of each unit of machinery and Equipment;
  3. Materials - quantities of supplies and Materials, prices, including transportation cost and extensions;
  4. Bonds and insurance premiums;
  5. Subcontract Work - Force Account detail as above, or progress quantities and prices of unit price or lump sum subcontracts; and
  6. Payment for items under paragraphs (A) to (F) inclusive, shall be conditioned upon Contractor's presentation of original receipted invoices for Materials used and transportation charges. If, however, the materials used in the Force Account Work are not specially purchased for such Work but are taken from Contractor's stock, then in lieu of the original invoices, the statements shall contain or be accompanied by an affidavit of Contractor which shall certify that such Materials were taken from his stock, that the

price and transportation of the Material as claimed represent actual cost.

- H. If, in the City's opinion, Contractor or any of his Subcontractors, in performing Force Account Work, are not making efficient use of labor, Material, or Equipment and/or are proceeding in a manner which is expensive to City, the Engineer may request the Contractor to make more efficient use of labor, Material and Equipment. Contractor shall in good faith comply with such requests as are reasonable. If the Contractor fails to comply with such requests, the Engineer may independently determine the reasonable cost of the Work and the Contractor will be entitled only to the reasonable cost so estimated by the Engineer.

#### GC-42.4 Lump Sum Change Order Work

Contractor shall prepare an estimate of all extra and deleted Work as described by Written Notice, using established unit prices where they are stated in the Bidding Document. Estimates for Labor, Bonds and Insurance, Materials, and Equipment required shall otherwise be based on the provisions set forth in GC-42.3 A, B, C, and D, above.

#### GC-42.5 Change Orders Limited

Except as provided in GC-41 and GC-42, no order, statement or conduct of the Engineer shall be treated as a "Change Order" or entitle the Contractor to any adjustment hereunder of the Agreement Price or Agreement Time.

#### GC-42.6 No Work Stoppage

Nothing in this Article shall excuse the Contractor from proceeding with the Agreement as changed.

#### GC-42.7 Agreement Amendment

The amount payable to the Contractor under the Agreement, the Agreement Time, and the date required for performance of any part of the Work may be changed only by a Change Order to the Agreement.

### **GC-43 DISAGREEMENT WITH ORDERS FOR CHANGE**

Contractor's written acceptance of a Change Order or other order for changes shall constitute his final and binding agreement to the provisions thereof and a waiver of all claims in connection therewith, whether direct or consequential in nature. Should Contractor disagree with any order for changes, he may submit a notice of potential claim to the Engineer in accordance with Clause GC-46 at such time as the order is set forth in the form of a Change Order. Disagreement with the provisions of an order for changes shall not relieve Contractor of his obligations under Clause GC-42, Change Orders.

#### **GC-44 CHANGED CONDITIONS**

Contractor shall notify the Engineer in writing of the following conditions, hereinafter called "changed conditions," promptly upon their discovery and before they are disturbed, in any event no later than five (5) calendar days:

- A. Subsurface or latent physical conditions at the site of Work differing materially from those indicated in this Agreement; or
- B. Unknown physical conditions at the site of the Work of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in this Agreement.

The Engineer shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the Work under this Agreement, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Agreement modified in writing in accordance with the provisions of Clause GC-41. If the Engineer determines that conditions of which he has been notified by Contractor do not justify an adjustment in compensation, he will so advise Contractor in writing. Should Contractor disagree with such determination, he may submit a notice of potential claim to the Engineer as provided in Clause GC-46.

No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required above; provided, however, the time prescribed therefor may be extended by the Engineer.

No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Agreement.

#### **GC-45 INVESTIGATION OF SUBSURFACE SITE CONDITIONS**

Investigations of the subsurface conditions at the Project site were prepared in anticipation of this Project. These include logs of test holes, results of field and laboratory tests and similar materials. Data obtained in such investigations is available at the Designer's office for review during the bid preparation period. These reports are offered without guarantee or representation of such. The data obtained from these borings and investigations represent the character of the information gathered only on the day on which the borings were made and at the exact location at which they were made. They shall not, in and of themselves, be considered representations within the meaning of the clause GC-46. Similar conditions may or may not exist on or throughout the Project site, or any part of it. Other conditions may or may not be encountered, no guarantees are made or implied.

Opinions, conclusions, interpretations or deductions concerning subsurface conditions which may be expressed or implied in any of the Materials and data which are made available to the Contractor, or any matters contained therein of which the Contractor has, or reasonably should have, independent knowledge of, shall not be considered representations of subsurface conditions within the meaning of Clause GC-46. Under no circumstances will an Agreement adjustment in cost and/or time be made solely on the comparisons made or drawn from this data. The logs and data on test holes are not guaranteed to be indicative of any soil type, rock strata or water table levels in part or in whole. The Contractor is advised to exercise all care in performing their own investigation to develop information or confirm the available data.

## **GC-46 NOTICE OF CLAIM**

### **GC-46.1 Time Limit**

No claim by the Contractor against the City for additional compensation or other injury or damage shall be valid unless a notice of claim is filed with the Engineer and the City within ten (10) days after occurrence of the event upon which the claim is based, and, in addition, unless a detailed written statement of claim, as required by GC-46, accompanied by vouchers and other supporting data, shall have been filed with the City and the Engineer by the Contractor within thirty (30) days after the occurrence of said event.

### **GC-46.2 Identification**

Any notice of claim must clearly identify the event that is relied upon, contain a clear statement of why it constitutes a basis for additional compensation and must contain a clear statement that the document constitutes a "Notice of Claim."

## **GC-47 STATEMENT OF CLAIM**

The statement of claim shall include a clear, concise recital of the basis upon which the claim is asserted, including a designation of the provision or provisions in the Agreement Documents on which the claim is based and the amount of the claim. All costs, expenses and damages claimed shall be included in detail with complete supporting documentation and shall be accompanied by a sworn statement indicating that: (a) the individual executing said statement is personally familiar with the matters stated in the claim; (b) that the matters stated therein are based upon the terms of the Agreement Documents; (c) that the costs, expenses and damages claimed therein flow directly from the matters stated therein; and (d) that the costs, expenses and damages listed therein have not been otherwise included in the cost of the Work and are true, accurate and correct.

## **GC-48 DECISION OF CLAIMS**

### **GC-48.1 Claim Review**

Upon receiving a statement of claim, complying with the requirements of GC-46 and GC-47 and with the advice and assistance of the Engineer as appropriate, the City shall review the statement of claim submitted by the Contractor. In conducting this review, the Engineer shall have the right to require the Contractor to submit such additional or supporting documents, data and other information as the City and/or the Engineer may require, and the failure to submit such additional documents, data or other information within fifteen (15) days following written request shall be deemed a waiver of the claim. Upon completion of such review, to take place within thirty (30) days of receipt of the additional documents, data or other information as may have been required by the City and/or the Engineer, the City in consultation with the Engineer shall issue a written determination, and if it deems appropriate accept such parts of the claim as they find in good faith to be proper and, if the Contractor agrees, a Change Order shall be issued to amend the Agreement Price, the time for completion or either of them as may be found proper. If the Contractor disputes the determination made by the City, the Contractor as a condition precedent to any further action to resolve such dispute must notify the City and the Engineer in writing within five (5) days following receipt of the decision of the factual basis of such dispute and permit the City fifteen (15) additional days to reconsider and, if it deems it appropriate, issue a modified decision.

### **GC-48.2 No Waiver**

Nothing contained in this section shall operate to limit or extinguish any right or defense of the City contained elsewhere in the Agreement Documents or available at law or in equity or constitute a waiver by the City of any right or defense otherwise available.

### **GC-48.3 Absolute Conditions Precedent**

The failure of the Contractor to file any claim within the time limits prescribed herein or in the form or manner precisely as required hereby shall be deemed a material prejudice to the interests of the City and shall constitute an absolute waiver of the claim and the right to file or thereafter prosecute the same.

## **GC-49 MEASUREMENT AND PAYMENT**

### **GC-49.1 Measurement**

All items of Work to be paid for at Agreement Prices per unit of measurement will be measured or certified by the Engineer.

#### GC-49.2 Payment at Agreement Prices

The Agreement prices for items of Work shall include full compensation for all costs of items, including the costs for any Work, Materials and Equipment incidental to the items but not specifically shown or described in Agreement Drawings and Specifications, subject only to such express limitations as may be stated in the Specifications defining the items or prescribing payment thereof.

#### **GC-50 HISTORICAL, SCIENTIFIC, AND ARCHEOLOGICAL DISCOVERIES**

All articles of historical or scientific value, including, but not limited to, coins, fossils, articles of antiquity, which may be uncovered by Contractor during process of Work, shall become the property of City. Such findings shall be reported immediately to the Engineer who will determine the further operations of Contractor, the method of removal, where necessary, and the final disposition thereof.

#### **GC-51 SEPARATE AGREEMENTS**

##### GC-51.1 Separate Contractors

The City reserves the right to award other Agreements in connection with this Project. Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate his Work with theirs. If the proper execution of results of any part of Contractor's Work depends upon the work of another contractor, Contractor shall inspect and promptly report to the Engineer any defects in such work that render it unsuitable for such proper execution and results.

##### GC-51.2 Cooperation

The City may perform additional work related to the Project by itself, or it may let other contract containing provisions similar to these. Contractor shall afford the other contractors who are parties to such contracts, the City, if it is performing the additional work itself, reasonable opportunity for the introduction and storage of materials and equipment and the execution of work and shall properly connect and coordinate his work with theirs.

##### GC-51.3 Review of Separate Contractor's Work

If any part of the Contractor's Work depends for proper execution or results upon the work of the City or any separate contractor, the Contractor shall, prior to proceeding with the Work, promptly report to the Engineer any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acceptance of the City's or separate contractor's work as fit and proper to receive the work, except as to defects which may subsequently become apparent in such work by others.

#### GC-51.4 Notice to Contractor

If the performance of additional work by other contractors of the City is not noted in the Agreement Documents prior to the execution of the Agreement, Written Notice thereof shall be given to Contractor prior to starting any such additional work.

#### GC-51.5 Damage to Separate Contractor

Should the Contractor wrongfully delay or cause damage to the work or property of any separate contractor, the Contractor shall, upon due notice, promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues or initiates a proceeding against the City or the Engineer on account of any delay or damage alleged to have been caused by the Contractor, the City shall notify the Contractor, who shall defend such proceedings at the Contractor's expense, and if any judgment or award against the City or the Engineer arises therefrom, the Contractor shall pay or satisfy it and shall reimburse the City for all attorneys' fees and court costs which the City has incurred.

#### GC-51.6 City's Right to Clean Up

If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up or for accomplishing coordination, the City may clean up and carry out such work and charge the cost thereof to the contractors responsible therefor as the Engineer shall determine to be just.

#### **GC-52 OFFICIAL NOT TO BENEFIT**

No officer or employee of the City shall be permitted to participate in the performance of this Agreement or receive any benefit or compensation arising out of the performance of such Agreement, and any Agreement entered into by the City in which any officer or employee of the City shall be personally interested shall be void, and no payment shall be made thereon by the City or any officer thereof; but this provision shall not be construed to extend to the Agreement if made with a corporation for its general benefit.

#### **GC-53 BRIBES**

A bribe or attempt to bribe any representative or officer of City by Contractor shall be considered as a breach of the Agreement in bad faith, and shall thus empower City to complete Work and deduct the entire cost thereof from any monies due or to become due Contractor under the Agreement.

## **GC-54 PRECONSTRUCTION CONFERENCE**

Within twenty (20) days after delivery of the executed agreement by City to Contractor, but before issuance of Notice to Proceed, a conference may be held to review progress schedules, to review the insurance and safety program, to establish procedures for handling Shop Drawings and other submittals and for processing progress payments, and to establish a Working understanding between the parties as to the Project.

The Contractor shall submit to the City for approval, prior to the preconstruction conference, a preliminary schedule of Shop Drawing submittals, and certification of insurance as required by Appendix B.

## **GC-55 TIME OF COMPLETION AND LIQUIDATED DAMAGES**

### **GC-55.1 Liquidated Damages (No Applicable for this Solicitation)**

It is understood and agreed that the City will sustain substantial monetary and other injury and damages, including, but not limited to, increased costs, expenses and liabilities in the event of failure by the Contractor to perform its Work in accordance with the Completion and any Interim Milestone Date(s) set forth in Project Network Schedule prepared in accordance with the Special Conditions. Accordingly, should the Contractor not complete the Work, or any such portion thereof, within the date(s) required by the Project Network Schedule initially approved by the Engineer, as they may be adjusted pursuant to the Agreement Documents, then charges shall be assessed against any money due or that may become due the Contractor in accordance with the following schedule:

For Each delay in Substantial Completion of the entire Work: \$ 500/ day

For Each day of delay in Final Completion of the entire Work: \$ 500/ day

The amount of such charges is hereby agreed upon as fixed liquidated damages due the City after the expiration of the Agreement Date(s) for completion specified in the Project Network Schedule for the Work or portions thereof. The Contractor and its surety shall be liable for any liquidated damages in excess of the amount due the Contractor on the Final Payment.

### **GC-55.2 No Penalty**

The fixed liquidated damages are not established as a penalty but are calculated and agreed upon in advance by the City and the Contractor due to the uncertainty and impossibility of making a determination as to the actual direct, incidental and consequential damages which are incurred by the City as a result of the failure on the part of the Contractor to complete the Work within the Agreement Completion Date(s) specified above. Liquidated damages shall start in accordance with the above schedule upon notification to the Contractor in writing that all apparent Agreement Time allowed to achieve the relevant Completion Date has been consumed. Liquidated Damages as they accrue will be deducted from periodic partial payments to the extent



they are sufficient to cover the liquidated damages owing; provided that any excess liquidated damages owing over the periodic partial payment amount may be deducted from retainage. Such deduction shall be in addition to the retainage provided for in the Agreement. The remaining amount of liquidated damages owing upon completion will be deducted from any amounts owing as Final Payment to the Contractor or his surety. Any excess amount owing as liquidated damages shall be paid upon demand.

#### **GC-56 RIGHT TO AUDIT**

The Contractor shall keep and maintain accurate books and records, and supporting data, documentation, correspondence, reports, instructions, Drawings, receipts, vouchers, and memoranda regarding performance of Work hereunder and including specifically, but without limitation, such information as estimates (pre and post bid), costs incurred, labor and Materials consumed, schedules and progress records and quality control. Such books and records shall be available for inspection, audit, and copying by the City or its authorized representative during the Work and for a period of three (3) years after Final Payment.

#### **GC-57 MEDIATION OF DISPUTES**

In the event of any controversy, claim, dispute or other matter in question arising out of or relating to this Agreement or the breach thereof or otherwise in connection with the Project to which this Agreement pertains, which has not been otherwise resolved or waived pursuant to other conditions of the Agreement Documents (hereinafter referred to as the "dispute"), the parties shall, as an express condition precedent to commencing legal action against the other relating to or arising out of the dispute, endeavor to resolve the dispute utilizing the Disputes Review Board. The Disputes Review Board may recommend, if both parties agree, non-binding mediation conducted under Commercial Mediation Rules of the American Arbitration Association, or under such other rules as the parties may promptly agree to employ. Such mediation shall be held at the regional office of the American Arbitration Association located in Atlanta, Georgia, or at any other convenient location agreeable to the parties and the mediator.

#### **GC-58 AGREEMENT ADMINISTRATION DOCUMENTS**

A substantial number of documents will be required for the administration of the Agreement. Some of these documents are identified in this document and elsewhere in the Agreement Documents (such as Change Order forms) and others may not be. The Engineer shall have full power and authority to designate and prepare the documents to be used and the Contractor and all Subcontractors and Material Suppliers shall utilize the documents so prepared and provided to them by the Engineer and shall follow the instructions of the Engineer with respect thereto in all regards save and excepting only those documents, if any, which the Contractor reasonably determines contain terms or requirements contrary to or in addition to and not reasonably inferable from the terms of the Agreement Documents. If the Contractor believes that any form or other document provided by the Engineer under the authority of this Section is subject to rejection by the Contractor under the terms hereof, it shall notify the Engineer thereof within ten (10) days following his first receipt of the particular document or form giving specific reasons

why the document or form is entitled to rejection. Thereafter, the form or document will be withdrawn, amended, or utilized as the Engineer finds in good faith to be appropriate after reviewing the notice provided by the Contractor. All Agreement Administration Documents may be revised at any time by the Engineer.

## **GC-59 MISCELLANEOUS PROVISIONS**

### **GC-59.1 Governing Law**

The Agreement shall be governed by the law of the State of Georgia.

### **GC-59.2 Contingent Assignment**

Effective as of any termination of the Agreement, Contractor hereby assigns to City all of the Contractor's interest in those subcontracts and purchase orders entered into by Contractor prior to termination which the City specifically requests by Written Notice. All Subcontractors and Purchase Orders shall provide that they are freely assignable by Contractor to the City and its assigns. City shall be at liberty to negotiate with and engage (for itself) any Subcontractors, Suppliers, or others that Contractor dealt with prior to termination.

### **GC-59.3 Rights and Remedies**

- A. The duties and obligations imposed by the Agreement Documents and the rights and remedies available thereunder shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.
- B. No action or failure to act or to require in any one or more instances upon the strict performance of any one or more of the provisions of the Agreement Documents, or to exercise any right herein contained or provided by law by the City or the Engineer, shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, nor shall it be construed as a waiver of the right to subsequently demand strict performance or exercise such rights, and the rights shall continue unchanged and remain in full force and effect, except as may be specifically agreed in writing.
- C. The Contractor agrees that it can be adequately compensated by money damages for any breach of this Agreement which may be committed by the City and hereby agrees that no default, act, or omission of the City, or the Engineer, shall constitute a material breach of the Agreement entitling the Contractor to cancel or rescind the provisions of this Agreement or (unless the City shall so consent or direct in writing) to suspend or abandon performance of all or any part of the Work. The Contractor hereby waives any and all rights and remedies to which it may otherwise be or become entitled, save only his right to money damages.

#### GC-59.4 Unenforceability of any Clause

If any clause of this Agreement is held as a matter of law to be unenforceable or unconscionable, the remainder of the Agreement shall be enforceable without such clause.

#### GC-59.5 Obligation to Perform

Contractor shall carry on the Work and adhere to the Progress Schedule during and notwithstanding all disputes or disagreements with City. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as Contractor and City may otherwise agree in writing.

#### GC-59.6 Labor Relations

Work on the Project may be performed by both union and nonunion separate contractors, Subcontractors, Suppliers, and other entities and persons. In the event of any strike, picket, sympathy strike, work stoppage, or other form of labor dispute at the Project whether directed at the Contractor, other separate contractors, Subcontractors, Suppliers or other persons, Contractor shall continue to perform its Work required hereby without interruption or delay. In the event the Contractor fails to continue its Work without interruption or delay, because of any or such events, the City, in addition to all other rights it has in the Agreement Documents and at law, may terminate the Agreement after giving Contractor forty-eight (48) hours written notice of its intent to do so for reason of Contractor's failure to perform. Additionally, if Contractor is party to one or more labor agreement, Contractor shall take all reasonable action to avoid any Work stoppage, and in the event of a work stoppage, Contractor shall within twenty-four (24) hours take all legal action permitted by such labor agreements or by law in order to expedite resumption of Work on this Project.

#### GC-59.7 Covenant Not to Sue

Should the City elect to terminate the employment of the Contractor for default as provided herein, then the Contractor covenants that it will not file any suit or proceeding of any kind against the City by reason thereof, until the City shall have either abandoned the Project or completed the Contractor's Work as required under the Agreement. If the Contractor should breach this "Covenant Not To Sue," then Contractor shall be liable to the City for all costs resulting to the City therefrom, including, without limitation, all attorneys' fees expended by the City in defending said suit or proceeding, unless a positive determination is made therein that the Contractor's termination by the City was motivated by fraud and bad faith and was without justification of any kind.

#### **GC-60 STATEMENT OF NON-DISCRIMINATION**

During the performance of this Agreement, Contractor 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 Contractor shall not discriminate against any employee, or applicant for employment, because of race, creed, religion, color, sex or national origin, marital status, physical handicap or sexual orientation. As used herein, the words "shall not discriminate" shall mean and include without limitation the following: Recruited, whether by advertising or other means; compensate, 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.

Contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notice to be provided by the Compliance Officer setting forth the provisions of the non-discrimination clause.

- b) Contractor shall in all solicitation or advertisement for employees, placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for the employment without regard to race, creed, religion, color, sex, national origin, marital status, physical handicap or sexual orientation.
- c) Contractor shall send to each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Contractor commitments under the Equal Employment Opportunity Program for the City of Atlanta and under this Ordinance, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. Contractor shall register all workers in the skilled trades who are below the journeyman level with the Bureau of Apprenticeship and Training.
- d) Contractor shall furnish all information and reports required by the Contract Compliance Officer pursuant to this Ordinance and shall permit access to the books, records, and accounts during the normal business hours of Contractor by the contracting agency and the Contract Compliance Officer for the purpose of investigation so as to ascertain compliance with the program.
- e) 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 non-compliance; 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. 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) Contractor and his 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 of the City of Atlanta. Compliance reports filed at such times directed shall contain information as to employment practices, policies, programs and statistics of the Contractor and his Subcontractors.
- g) Contractor shall include the provisions of paragraphs (a) through (h) of this Equal Employment Opportunity Clause in every subcontract or purchase order so that such provisions will be binding upon each Subcontractor or vendor.
- h) A finding, as hereinafter provided, that a refusal by 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 Contractor in violation all future payments under the involved public contract until it is determined that Contractor or Subcontractor is in compliance with the provisions of the Agreement;
  - (2) Refusal of all future bids for any public contract with the City of Atlanta or any of its departments or division 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 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 the contract, appropriate proceeding may be brought to enforce those provisions, including the enjoining, within applicable laws, 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.

## **GC-61 EQUAL BUSINESS OPPORTUNITY (EBO)**

During the performance of this Agreement, Contractor agrees to comply with all provisions of Part 2, Chapter 2, Article X, Division 11, including Section 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**”), 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 actions as part of its good faith efforts:

1. Notification to MBEs and FBEs that the Contractor has subcontracting opportunities available and maintenance of records of the MBEs’ and FBEs’ responses.
2. Maintenance by the Contractor of a file of the names and addresses of each MBE and FBE contacted and action taken with respect to each such Agreement.
3. Dissemination of the Contractor's 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 all Subcontractors and Suppliers.
4. Specific and continuing personal (both written and oral) recruitment efforts directed at MBE and FBE Contractor organizations, MBE and FBE assistance organizations.
5. Sub-division of the Agreement into economically feasible segments as practical to allow the greatest opportunity for participation by MBEs and FBEs.
6. Increasing where possible the number of aggregate purchase items so as to eliminate the requirement of front-end purchases of material for as many MBE and FBE Subcontractors as possible.
7. Adoption of the Equal Business Opportunity 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.
8. 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 last day of each month following the award of the Work set forth in this Agreement.

9. The Contractor further agrees that its breach of the EBO provisions contained herein shall subject it to any or all of the following penalties:

- a) Withholding of ten per cent (10%) of all future payments under the involved eligible project until it is determined that the Contractor is in compliance;
- b) Withholding of all future payments under the involved project until it is determined that the Contractor is in compliance;
- c) Refusal of all future bids or offers for any eligible project with the City of Atlanta or any of its departments or divisions until such time as the Contractor demonstrates that there has been established and there shall be carried out all of the EBO provisions contained herein; and
- d) Cancellation of the eligible project.

## **GC-62 WAGE RATES AND REPORTING PROCEDURES**

### **GC-62.1 Certified Payrolls**

The Contractor shall maintain accurate payroll records and be prepared to submit certified copies for the prime contractor and all subcontractors. Payrolls reporting an employee for the first time must contain the complete name, address, and social security of the employee.

### **GC-62.2 Submittals**

All required payrolls shall be submitted to the Office of Contract Compliance. Any questions concerning these submittals can be addressed:

Office of Contract Compliance  
55 Trinity Avenue, Suite 1700  
Atlanta, Georgia 30303  
(404) 330-6010

### **GC-62.3 Wage Requirements**

Contractors shall pay the prevailing wages as stipulated by the wage scale(s) which are incorporated in Exhibit C. Such scale of wages to be paid shall be posted by the Contractor in a prominent and easily accessible place at the site of Work.

## **GC-63 TECHNICAL MANUALS**

These manuals are operator and shop maintenance instructions which enable an average journeyman mechanic without prior knowledge of the specific type, make, or model to maintain

and repair the Equipment. The manuals shall include repair parts data which provide positive identification for an item of the complete equipment without reference to the manufacturer or dealer facilities to identify ordering part numbers in support of procured Equipment.

#### GC-63.1 Preparation Instructions

A technical manual set is required to cover each specific make, model, year and serial numbered piece of Equipment scheduled for delivery under terms of this Agreement. It is the intent of these requirements to use standard commercial manuals modified to meet the minimum Specification set forth herein. The manuals shall provide instructions, illustrations, and other associated data for operations, preventive and corrective maintenance and repair, including a complete catalog of parts used in the assembly of the end item. The manuals provided shall contain complete instructions and information as set forth below for all Equipment components, assemblies, subassemblies, attachments, and accessories manufactured by the prime supplier or those purchased by the prime supplier from other sources and assembled in the finished end item.

#### GC-63.2 Contents of Technical Manuals

The contents of complete set of technical manuals shall include, at a minimum, of the following:

- (a) Table of Contents;
- (b) Operating instructions;
- (c) Preventive maintenance, service, and corrective maintenance or repair instructions;
- (d) Parts list with recommended quantity; and
- (e) Approved Shop Drawing(s).

#### GC-63.3 Binding and Deliver

The manual(s) shall be bound or otherwise securely enclosed in an oil and moisture resistant binder(s). Each binder cover shall indicate the manufacturer's name, Agreement number, model number, and serial number of the unit or Equipment. Four (4) copies of the manual(s) shall be delivered with the Shop Drawings and must be approved with the Shop Drawings.



## **GC-64 TESTING LABORATORY SERVICES**

### **GC-64.1 Scope**

- A. From time to time during progress of the Work, the City may require testing to determine that materials meet the requirements of the Specifications. Testing will be done by a Lab designated by the City for specified field quality control. Such testing includes, but is not necessarily limited to:
  - 1. Cement;
  - 2. Aggregate;
  - 3. Concrete;
  - 4. Soil-cement;
  - 5. Asphalt;
  - 6. Steel and metals;
  - 7. Welding;
  - 8. Soil compaction; and
  - 9. Bituminous pavement.
- B. Requirements for testing may be described in various sections of these Specifications, where no testing requirements are described but the City decides that testing is required to demonstrate compliance with specified material or performance standards, the City may require testing to be performed under current pertinent standards for testing.
- C. Employment of a testing laboratory shall in no way relieve the Contractor of Contractor's obligation to perform Work meeting the requirements of the Agreement.
- D. The independent testing laboratory, except as specified, shall be selected and paid by the City for one passed test and this test shall not be included in the Contractor's proposal. The Contractor shall be responsible for notifying the City to schedule the testing.
- E. The Contractor shall pay directly for the services of the independent testing laboratory, approved by the City, for the following:
  - 1. Concrete mix design and
  - 2. Other materials and workmanship requirements specified in Divisions 2 through 12, unless otherwise specified.

### **GC-64.2 Laboratory Duties**

- A. Cooperate with City and Contractor.
- B. Provide qualified personnel promptly.
- C. Perform specified inspections, sampling and testing of materials and methods of construction.

1. Comply with specified standards, ASTM, other recognized authorities and as specified.
  2. Ascertain compliance with requirements of Agreement Documents.
- D. Promptly notify City and Contractor of irregularity or deficiency of Work observed during performance of Work.
- E. Promptly submit three (3) copies [two (2) copies to City and one (1) copy to Contractor] of report of inspections and tests in addition to those additional copies required by the Contractor including:
1. Date issued;
  2. Project title and number;
  3. Testing laboratory name and address;
  4. Name and signature of inspector;
  5. Date of inspection or sampling;
  6. Record of temperature and weather;
  7. Date of test;
  8. Identification of product and Specification section;
  9. Location of Project;
  10. Type of inspection or test;
  11. Results of test; and
  12. Observations regarding compliance with Agreement Documents.
- F. Perform additional services as required.
- G. Laboratory is not authorized to:
1. Release, revoke, alter or enlarge on requirements of Agreement Documents and
  2. Approve or accept any portion of Work.

### GC-64.3 Contractor Responsibilities

- A. Cooperate with laboratory personnel, provide access to Work and/or manufacturer's requirements.
- B. Provide to laboratory, preliminary representative samples, in required quantities, of materials to be tested.
- C. Furnish copies of mill test reports.
- D. Furnish required labor and facilities.
  1. To provide access to Work to be tested
  2. To obtain and handle samples at the site
  3. To facilitate inspection and tests
  4. Build or furnish a holding box for concrete cylinders or other samples as required by the laboratory.
- E. Notify laboratory sufficiently in advance of operation to allow for the assignment of personnel and schedules of tests.

- F. Copies of all correspondence between the Contractor and testing agencies shall be provided to the City.

#### GC-64.4 Quality Assurance

Testing, when required, will be in accordance with all pertinent codes and regulations and with procedures and requirements of the American Society for Testing and Materials (ASTM) or applicable association, society, etc. (SSPC, etc.)

#### GC-64.5 Product Handling

Promptly process and distribute all required copies of test reports and related instructions to ensure all necessary retesting or replacement of materials with the least possible delay in progress of the Work.

#### GC-64.6 Furnishing Materials

The Contractor shall be responsible for furnishing all materials necessary for testing.

#### GC-64.7 Code Compliance Testing

Inspections and tests required by codes or ordinances or by a plan approval authority, and made by a legally constituted authority, and made by a legally constituted authority, shall be the responsibility of and shall be paid for by the Contractor, unless otherwise provided in the Agreement Documents.

#### GC-64.8 Convenience Testing

Inspection or testing performed exclusively for the Contractor's convenience shall be the sole responsibility of the Contractor.

#### GC-64.9 Schedule for Testing

##### A. Establishing Schedule

1. The Contractor shall by advance discussion with the testing laboratory determine the time required for the laboratory to perform its tests and to issue each of its finds, and make all arrangements for the testing laboratory to be on site to provide the required testing.
2. Provide all required time within the construction schedule.

- B. When changes of construction schedule are necessary during construction, coordinate all such changes of schedule with the testing laboratory as required.

#### GC-64.10 Test and Certification

- A. General: At a minimum, the following tests shall be performed and the following certifications provided:

1. Cement: Certified test results by cement manufacturer or by independent laboratory shall be furnished as required by the City.
2. Aggregate and Mortar Sand: Certified test results by aggregate producer or by independent laboratory shall be furnished as required by the City.
3. Concrete:
  - a. At least five (5) standard 6-inch cylinders shall be taken each day for each one hundred (100) cubic yard or fraction thereof for each class of concrete used;
  - b. The number of cylinders, the point of sampling, and the method of securing the samples shall be determined by the City;
  - c. The five (5) samples shall be taken to the testing laboratory for laboratory curing;
  - d. Two (2) of the laboratory cured samples shall be tested at seven (7) days, two (2) samples tested at twenty-eight (28) days; one (1) samples in reserve;
  - e. Test all concrete in accordance with ASTM C31-69, C39-71 and C-172;
  - f. Slump Tests:
    - (1) Perform slump tests on the mob in accordance with ASTM standards;
    - (2) One (1) slump test shall be performed for each twenty-five (25) cubic yards of concrete;
    - (3) More slump tests shall be performed if deemed necessary by the City;
  - g. Perform air entrainment tests in accordance with the following standards:
    - (1) Field test – ASTM C-173; and
    - (2) Laboratory Tests – ASTM C231.

B. Precast and Concrete Block for Buildings

1. Block and precast may be visually inspected on the site by the City.
2. The City reserves the right to have the concrete block tested by an independent laboratory.

C. Steel and Miscellaneous Metal: Reinforcing steel, structural steel and miscellaneous metal may be inspected visually on the site by the City.

D. Welding: One percent (1%) of all structural welds during construction shall be inspected either visually or by an independent laboratory as required by the City.

E. Compaction of Earthwork:

1. The compaction shall be tested by the City or by an independent laboratory.
2. The testing shall be performed in a manner in accordance with these Specifications.

F. Bituminous Concrete: The material testing for the bituminous concrete shall be performed by an independent laboratory as deemed necessary by the City.

#### GC-64.11 Taking Specimens

Unless otherwise provided in the Agreement Documents, all specimens and samples for tests will be taken by the testing laboratory or the City.

#### GC-64.12 Transporting Samples

The Contractor shall be responsible for transporting all samples, except those taken by testing laboratory personnel to the testing laboratory.

**\*\*END OF GENERAL CONDITIONS\*\***

**Appendix D**  
**Special Conditions**

**(Not Applicable)**

**Appendix E**  
**Additional Required Submittals**

**(Not Applicable)**