



**INVITATION TO BID – COMMODITIES 16ITBC104551B-BR**

**Shelf-Ready Adult, Teens and Children  
For**

**ATLANTA-FULTON PUBLIC LIBRARY**

**BID ISSUANCE DATE: Thursday, October 6, 2016**

**BID DUE DATE AND TIME: Tuesday, November 8, 2016 at 11:00 A.M.**

**PURCHASING CONTACT: BRIAN RICHMOND @ 404.612.7915**

**E-MAIL: [BRIAN.RICHMOND@FULTONCOUNTYGA.GOV](mailto:BRIAN.RICHMOND@FULTONCOUNTYGA.GOV)**

**LOCATION: FULTON COUNTY DEPARTMENT**

**130 PEACHTREE STREET, S.W., SUITE 1168**

**ATLANTA, GA 30303**

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**FULTON COUNTY GOVERNMENT**

**INVITATION TO BID - COMMODITY**

**SHELF READY ADULT, TEENS and CHILDREN BOOKS**

Fulton County Government "County" is soliciting Bids for the procurement of **Shelf Ready Adult, Teens and Children Books** for the Auburn Avenue Research Library. Bid responses must be submitted electronically using the County's on-line Vendor Self Service System. The Bidder's firm/company must be a registered Vendor in the County's AMS System in order to respond to this ITBC. Bid responses, with required attachments, must be submitted electronically **no later than 11:00 a.m.**, local time, on **Tuesday, November 1, 2016**.

**PURPOSE AND SCOPE**

The purpose of this Invitation to Bid – Commodity ("ITBC") is to establish an indefinite Vendor(s) to be used as the primary source to provide books for Adult, Young Adults, and Juvenile library patrons' in accordance to attached specifications. Books will be ordered in quantity as may be needed to fill patrons' request. As it is impossible to determine the precise quantities that may be needed during the contract period, the Vendor is obligated to deliver in minimum/maximum quantities contracted for in accordance with the specific conditions of this bid.

**METHOD OF SOURCE SELECTION**

This procurement is being conducted in accordance with all applicable provisions of the Fulton County Code of Ordinances and the specific method of source selection for the services required in this bid is Code Section 102-373, Competitive Sealed Bid.

**BID DOCUMENTS**

This document and supporting documents can be downloaded at the Fulton County Website, <http://www.fultoncountyga.gov> under "Bid Opportunities".

**PURCHASING CONTACT**

Information regarding the bid or bid requirements, either procedural or technical, may be obtained by submitting questions in writing to:

Fulton County Government  
Department of Purchasing & Contract Compliance  
Attn: Brian Richmond, Assistant Purchasing Agent  
Fulton County Public Safety Building  
130 Peachtree Street, S.W., Suite 1168  
Atlanta, Georgia 30303  
Email: [brian.richmond@fultoncountyga.gov](mailto:brian.richmond@fultoncountyga.gov)  
Fax: 404.893.6268

Reference Bid #:16ITBC104551B-BR, Shelf Ready Adult, Teen and Children Books

Any response made by the County will be provided in writing to all Proposers by addendum. No verbal responses shall be authoritative.

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### **VENDOR REGISTRATION**

Bid responses must be submitted electronically using the County's on-line Vendor Self Service System. The Bidder's firm/company must be a registered Vendor in the County's AMS System in order to respond to this ITBC. If you are not a registered vendor you may access and complete the vendor application via the County's Vendor Registration website, [www.fultonvendorelfselfservice.co.fulton.ga.us](http://www.fultonvendorelfselfservice.co.fulton.ga.us). You must provide a copy of your current Business License and a W-9 in order to complete the vendor registration process.

If you have any questions regarding registering, please contact the County's Vendor Coordinator at (404) 612-1010.

### **PRE-BID CONFERENCE**

No Pre-Bid conference will be held. However, bidders desiring clarification for this bid, must submit their concerns in writing (US Mail or email) to Brian Richmond at [brian.richmond@fultoncountyga.gov](mailto:brian.richmond@fultoncountyga.gov), no later than on **Tuesday, October 18, 2016 @ 11:00 A.M.** in the Fulton County Purchasing Department Bid Room, located at 130 Peachtree Street, S.W. Suite 1168, Atlanta, Georgia 30303. ***Inquiries regarding the solicitation either technical or otherwise may be submitted in writing prior to the Pre-Bid conference and will be addressed at the Pre-Bid conference.***

Fulton County does not discriminate on the basis of disability in the admission or access to its programs or activities. Any requests for reasonable accommodations required by individuals to fully participate in any open meeting, program or activity of Fulton County Government should be directed to Rholanda Stanberry, Contract Compliance Administrator at (404) 612-6304 or email: [rholanda.stanberry@fultoncountyga.gov](mailto:rholanda.stanberry@fultoncountyga.gov).

**END OF SECTION**

**16ITBC104551B-BR, SHELF READY ADULT, TEENS AND CHILDREN BOOKS****INSTRUCTIONS TO BIDDERS, GENERAL TERMS AND CONDITIONS**

The following provisions are hereby made a part of this Invitation to Bid - Commodities (ITBC).

Any Contract or Purchase Order awarded as the result of this request shall be governed by these General Terms and Conditions.

**1. BID PREPARATION**

- a. Bid responses must be submitted electronically using the County's on-line Vendor Self Service System.
- b. Unit prices must be entered in the appropriate spaces provided. The unit price for each unit shall include packing, unless otherwise specified.
- c. The County may, in its sole discretion, reject any bid determined as irregular, a conditional bid or any bid on which there is an alteration of, or departure from the Bid Schedule attached.
- d. Failure to execute the Bid Schedule/Bid Form documents may result in Bidder being deemed non-responsive and cause rejection of the bid.
- e. The County reserves the right to award multiple contracts for the procurement of annual contracts for goods and commodities.

**2. RECEIPT AND OPENING OF BIDS**

Bid responses must be submitted electronically using the County's on-line Vendor Self Service System at [www.fultonvendoreselfservice.co.fulton.ga.us](http://www.fultonvendoreselfservice.co.fulton.ga.us). The Bidder's firm/company must be a registered Vendor in the County's AMS System in order to respond to this ITBC. Bid responses are due **no later than 11:00 a.m.**, local time, on **Tuesday, November 1, 2016**.

**REQUIRED SUBMITTALS:** The bidder **must complete and execute** the forms listed below and the executed Forms must be submitted electronically with your bid submittal as an attachment:

1. Acknowledgement of each Addendum (if applicable)
2. Purchasing & Contract Compliance Forms:
  - i. Exhibit A: Promise of Non-Discrimination
  - ii. Exhibit B: Employment Report

Any bids received after the stated time and date will not be considered. It shall be the sole responsibility of the bidder to submit his/her bid on-line to the Fulton County Department of Purchasing and Contract Compliance for receipt on or before the stated time and date.

Bid shall be publicly opened, with only the names and total bid price of the bidders disclosed at the opening

### **3. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

By submission of this Bid, the Bidder certifies, and in the case of joint bid each party thereto certifies as to its own organization, that in connection with this procurement:

- (1) The prices in this Bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- (2) Unless otherwise required by law, the prices which have been quoted in this Bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to the opening, directly or indirectly to any other Bidder or to any competitor; and
- (3) No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a bid for the purpose of restricting competition.

### **4. MULTI-YEAR CONTRACT TERM**

The contract term shall be as defined below. The County is obligated only to pay such compensation under the contract as may lawfully be made from funds budgeted and appropriated for that purpose during the County's then current fiscal year.

#### **a. Commencement Term**

The effective date of the Purchase Order shall begin the starting date, and shall end absolutely and without further obligation on the part of the County on the 31<sup>st</sup> day of December 2017. The Commencement Term shall be subject to events of termination and the County's termination rights that are described elsewhere in this Agreement. Notwithstanding anything contained in this Agreement, the County's obligation to make payments provided under this Agreement shall be subject to the County's annual appropriations of funds for the goods, services, materials, property and/or supplies procured under this Agreement by the County's governing body and such obligation shall not constitute a pledge of the County's full faith and credit within the meaning of any constitutional debt limitation.

#### **b. Renewal Terms**

Unless the terms of this Agreement are fulfilled with no further obligation of the part of either party on or before the final date of the Commencement Term as stated above, or unless an event of termination as defined within this Agreement occurs during the Commencement Term, this Agreement may be renewed at the written option of the County upon the approval of the County Board of Commissioners for two (2) one-year ("Renewal Terms"). However, no Renewal Term of this Agreement shall be authorized nor shall any Renewal Term of this Agreement commence unless and until each Renewal Term has first been approved in writing by the County Board of Commissioners for the calendar year of such Renewal Term. If approved by the County Board of Commissioners, the First Renewal Term shall begin on the 1<sup>st</sup> day of January, 2018 and shall end no later than the 31<sup>st</sup> day of December, 2018. If approved

by the County Board of Commissioners, the Second Renewal Term shall begin on the 1<sup>st</sup> day of January, 2019 and shall end no later than the 31<sup>st</sup> day of December, 2019. If the County chooses not to exercise any Renewal Term as provided in this Section, then the Term of this Agreement then in effect shall also be deemed the "Ending Term" with no further obligation on the party of either party.

**c. Term Subject to Events of Termination**

All "Terms" as defined within this Section are subject to the section of this Agreement which pertain to events of termination and the County's rights upon termination.

**d. Same Terms**

Unless mutually agreed upon in writing by the parties, or otherwise indicated herein, all provisions and conditions of any Renewal Term shall be exactly the same as those contained within in this Agreement.

**e. Statutory Compliance Regarding Purchase Contracts.**

The parties intend that this Agreement shall, and this Agreement shall operate in conformity with and not in contravention of the requirements of O.C.G.A. § 36-60-13, as applicable, and in the event that this Agreement would conflict therewith, then this Agreement shall be interpreted and implemented in a manner consistent with such statute.

**5. EXAMINATION OF CONTRACT DOCUMENTS**

Prospective bidders shall examine the contract documents and before submitting a bid, shall make a written request to the County for an interpretation or correction of any ambiguity, in consistency or error therein which could be discovered by a bidder. At the bid opening each bidder shall be presumed to have read and be familiar with the contract documents.

**6. ADDENDA AND INTERPRETATIONS**

Bidders may submit requests for clarification or questions regarding this ITBC to the Purchasing Contact Person. Any request shall be submitted in writing via Facsimile or Email. All responses to written request(s) will be distributed as an Addendum to this ITBC and posted on the County's website at [www.fultoncountyga.gov](http://www.fultoncountyga.gov) under "Bid Opportunities."

The County will not respond to requests received after [Insert Day and Date] at 2:00 P.M.

**7. NON-COLLUSION**

By submitting a Bid, the Bidder certifies that this bid is made without prior understanding, agreement or connection with any other corporation, firm or person submitting a bid for the same work, labor or service to be done or the supplies, materials or equipment to be furnished and is in all respects fair and without collusion

or fraud. Bidder further understands collusive bidding is a violation of state and federal law and can result in fines, prison sentences and civil damage awards. Bidder agrees to abide by all conditions of this bid and certifies that person signing is authorized to sign this bid or proposal for the bidder.

#### **8. CERTIFICATE OF ACCEPTANCE**

By responding to this Bid, the Bidder acknowledges that he/she has read this solicitation document, including any addenda, exhibits, attachments, and/or appendices in its entirety, and agrees that no pages or parts of the document have been omitted, that he/she understands, accepts and agrees to fully comply with the requirements therein.

#### **9. CONFLICT OF INTEREST**

Bidder states that no County officer or employee, nor any business entity in which they have an interest: a) Has an interest in the contract awarded; b) Has been employed or retained to solicit or aid in the procuring of the resulting contract; c) Will be employed in the performance of such contract without immediate disclosure of such fact to the County.

#### **10. BASIS OF AWARD**

The County shall award to the lowest responsive and responsible bidder(s) per line item(s) complying with the provisions of the ITB-Commodities.

The following criteria may be considered by the County in selecting the most advantageous quote: a) Ability to perform the service required within the specified time; b) Conformance to specification; c) The quality of performance in previous contracts; d) Financial ability to perform the contract; e) Item pricing; f) Bidder references. The County reserves the right to cancel the solicitation and to reject any or all bids in whole or in part and is not bound to accept any bid if rejection of that bid is determined to be contrary to the best interest of the County.

#### **11. SAMPLES**

Samples of items when required, must be furnished free of expense to the County and upon request, be returned to the Bidder at the Bidder's expense. Samples of selected items may be retained for comparison purposes.

#### **12. NEW**

All items bid must be new. Used, rebuilt and refurbished items will not be considered unless specifically authorized by Fulton County in the written specifications.

#### **13. BRAND NAME SPECIFICATIONS AND APPROVED EQUIVALENTS**

Unless otherwise specified, manufacturer's names, trade names, brand names, information and/or catalog numbers listed in the specifications are intended only to identify the quality and characteristics desired. They are not intended to limit competition. The Bidder may offer any equivalent product which meets or exceeds

the specifications. If bids are based on equivalent products, the bid must: a) Indicate the alternate manufacturer's name and catalog number; b) Include complete descriptive literature and/or specifications; c) Include proof that the proposed equivalent will meet the specifications. The County reserves the right to be the sole judge of what is equal and acceptable to meet its needs in all respects. If Bidder fails to name a substitute, goods identical to the published standard must be furnished.

#### **14. INSURANCE AND RISK MANAGEMENT PROVISIONS**

The successful Bidder(s) shall, during all terms of the Contract maintain in full force and effect (i) commercial general liability insurance in the amounts of \$1,000,000.00 (each occurrence), with a \$2,000,000.00 (general aggregate), (ii) automobile liability insurance with a combined single limit for bodily injury and property damage of not less than \$500,000 with respect to any owned, hired and/or non-owned vehicles utilized in the performance of its' services. At the time of award, a copy of the successful Bidder's Certificate of Insurance must be provided.

#### **15. INDEMNIFICATION**

Bidder hereby agrees to release, indemnify, defend and hold harmless the County, its Commissioners, officers, employees, subcontractors, successors, assigns and agents from and against any and all losses (including death), claims, damages, liabilities, costs and expenses (including but not limited to all actions, proceedings, or investigations in respect thereof and any outcome of any such action, proceeding, or investigation), caused by, relating to, based upon or arising out of any act or omission by contractor, it's directors, officers, employees, subcontractors, successors, assigns or agents, or otherwise in connection with its acceptance, of the performance, or nonperformance, of its obligations under this agreements.

Bidder's obligation to protect, defend, indemnity and hold harmless, as set forth hereinabove, shall also include, but is not limited to, any matter arising out of any actual or alleged infringement of any patent, trademark, copyright, or service mark, or other actual or alleged unfair competition disparagement of product or service, or other tort or any type whatsoever, or any actual or alleged violation of trade regulations.

Bidder further agrees to protect, defend, indemnify and hold harmless Fulton County, its Commissioners, officers, employees, subcontractors, successors, assigns and agents from and against any and all claims or liability for compensation under the Worker's Compensation Act, Disability Benefits Act, or any other employee benefits act arising out of injuries sustained by any employees of Bidder. These indemnities shall not be limited by reason of the listing of any insurance coverage.

#### **16. TAXES**

Fulton County is exempt from the State of Georgia sales tax and exemption certificate will be furnished upon request.

## **17. DELIVERY**

All prices must be FOB Destination, unloaded inside and assembled unless otherwise indicated.

## **18. PLACEMENT OF ORDERS**

Orders will be placed using one of the following methods:

- a) A Purchase Order (PO) will be issued as required for departments having a known requirement, fixed quantities, and one-time delivery, during the entire life of the contract.
- b) A Delivery Order (DO) will be issued as required for departments having a known requirement, fixed quantities, and one-time delivery, during the entire life of the contract.

## **19. RIGHTS AND REMEDIES OF COUNTY FOR DEFAULT**

If any item furnished by the Bidder fails to conform to specifications, or to the sample submitted by the Bidder, the County may reject it. Upon rejection, the Bidder must promptly reclaim and remove such item without expense to the County, and shall immediately replace all such rejected items with others conforming to such specification and samples. If the Bidder fails to do so, the County has the right to purchase in the open market a corresponding quantity of any such items and to deduct from any monies due the Bidder the difference between the prices named in the purchase order and the actual cost to the County. If the Bidder fails to make prompt delivery of any item, the County has the right to purchase such item in the open market and to deduct from any monies due the Bidder the difference between the prices named in the purchase order and the actual replacement cost to the County. The rights and remedies of the County identified above are in addition to any other rights and remedies provided by law or under the purchase order.

## **20. INVOICES AND PAYMENT TERMS**

Invoices are to be mailed to the County department specified on the resulting purchase order or master agreement. All invoices must include the purchase order number or master agreement number. Failure to comply may result in delayed payments. The County payment terms are Net 30 days unless a cash discount is allowed for payment within not less than twenty (20) days. The payment term shall begin on the date the merchandise is inspected, delivered and accepted by the County.

**Submittal of Invoices:** Invoices shall be submitted as follows:

**Via Mail:**

Fulton County Government  
141 Pryor Street, SW  
Suite 7001  
Atlanta, Georgia 30303  
Attn: Finance Department – Accounts Payable

OR

**Via Email:**

Email: [Accounts.Payable@fultoncountyga.gov](mailto:Accounts.Payable@fultoncountyga.gov)

At minimum, original invoices must reference all of the following information:

- 1) Vendor Information
  - a. Vendor Name
  - b. Vendor Address
  - c. Vendor Code
  - d. Vendor Contact Information
  - e. Remittance Address
  
- 2) Invoice Details
  - a. Invoice Date
  - b. Invoice Number (uniquely numbered, no duplicates)
  - c. Purchase Order Reference Number
  - d. Date(s) of Services Performed
  - e. Itemization of Services Provided/Commodity Units
  
- 3) Fulton County Department Information (needed for invoice approval)
  - a. Department Name
  - b. Department Representative Name

**21. LEGAL REQUIREMENTS**

Federal, State, County and local ordinances, rules and regulations, and policies shall govern development, submittal and evaluation of quote and disputes about quotes. Lack of knowledge by any Bidder about applicable law is not a defense.

**22. ASSIGNMENT**

Any purchase order awarded shall not be assignable by the Bidder without the express written approval of the County, and shall not become an asset in any bankruptcy, receivership or guardianship proceedings.

**23. REJECTION OF BID**

Bids may be considered irregular and may be rejected if they show omissions, alternations of form, additions not called for, conditions, limitations, unauthorized alternate bids or other irregularities of any kind. The County reserves the right to waive minor technicalities or irregularities of bid.

**24. TERMINATION**

In the event any of the provisions of the purchase order are violated, the County may serve written notice of its intention to terminate the purchase order. Such notice will state the reason(s) for such intention, and unless within ten (10) days after serving notice upon the contractor, such violation has ceased and satisfactory arrangements

for correction made, the purchase order shall, upon expiration of ten (10) days, be terminated. Further, the County reserves the right to terminate for its convenience any purchase order in whole or in part upon giving thirty (30) days prior written notice to the other party.

## **25. DEBARMENT**

If a Bidder is presently debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from doing business with any government agency which prohibits your firm from participating in any procurement, the Bidder must provide the County with that information as part of its response to this solicitation. Failure to fully and truthfully provide the information required, may result in the disqualification of your bid from consideration or termination of the purchase order, once awarded.

## **26. RIGHT TO PROTEST**

Any actual bidder or offeror that has submitted a bid/proposal for a particular procurement and is aggrieved in connection with the solicitation or award of the contract shall protest in writing to the purchasing agent after the date that the specific bid or proposal is submitted. No protest will be accepted or considered prior to the date the specific bid or proposal is submitted; it will be considered untimely. All protests shall set forth in full detail the factual and legal bases for the protest and specific relief sought by the protestor. Protests arising from factual or legal bases that the protestor knew or should have known prior to the submission of the bid/proposal must be submitted within three business days of the submission of the bid/proposal. Protests arising from factual or legal bases that the protestor knew or should have known subsequent to the date the bid/proposal was submitted must be submitted within ten business days after the protestor knew or should have known of such bases, but in no event shall any protest be submitted more than ten business days after the award of the contract. Untimely protests will not be considered by the purchasing agent and will be simply denied as untimely. Decisions on timeliness by the purchasing agent are not appealable. An oral protest or a protest to an official, employee, User Department, or other person apart from the Director of Purchasing & Contract Compliance does not comply.

## **27. BINDING AUTHORITY**

The individual submitting this bid must have binding authority to submit contracts on behalf of the responding company. By submitting a response, Bidder agrees that their bid is an offer to sell. All bidders shall comply with all Fulton County purchasing laws, policies, and procedures, as well as relevant state and federal laws, including compliance with EEOC hiring guidelines and requirements under the Americans with Disabilities Act.

## **28. SUBMITTALS**

The following submittals must be completed and submitted electronically as an attachment with the Bid Submittal. This checklist is provided to ensure that the Bidder submits certain required information with its Bid.

	<b>Bid Submittal Check Sheet</b>	<b>Check (√)</b>
<b>1.</b>	<b>Acknowledgment of Addenda (if applicable)</b>	
<b>2.</b>	<b>Exhibit A: Promise of Non-Discrimination</b>	
<b>3.</b>	<b>Exhibit B: Employment Report</b>	

**END OF SECTION**

**FORM 1: PROMISE OF NON-DISCRIMINATION**

"Know all persons by these presents, that I/We ( \_\_\_\_\_ ),  
Name

\_\_\_\_\_ Title Firm Name  
Hereinafter "Company", in consideration of the privilege to bid on or obtain contracts funded, in whole or in part, by Fulton County, hereby consent, covenant and agree as follows:

- 1) No person shall be excluded from participation in, denied the benefit of, or otherwise discriminated against on the basis of race, color, national origin or gender in connection with any bid submitted to Fulton County for the performance of any resulting there from,
- 2) That it is and shall be the policy of this Company to provide equal opportunity to all businesses seeking to contract or otherwise interested in contracting with this Company without regard to the race, color, gender or national origin of the ownership of this business,
- 3) That the promises of non-discrimination as made and set forth herein shall be continuing in nature and shall remain in full force and effect without interruption,
- 4) That the promise of non-discrimination as made and set forth herein shall be made a part of, and incorporated by reference into, any contract or portion thereof which this Company may hereafter obtain,
- 5) That the failure of this Company to satisfactorily discharge any of the promises of non-discrimination as made and set forth herein shall constitute a material breach of contract entitling the Board to declare the contract in default and to exercise any and all applicable rights and remedies, including but not limited to cancellation of the contract, termination of the contract, suspension and debarment from future contracting opportunities, and withholding and/or forfeiture of compensation due and owing on a contract; and
- 6) That the bidder shall provide such information as may be required by the Director of Contract Compliance pursuant to Section 4.4 of the Fulton County Non-Discrimination in Purchasing and Contracting Ordinance.

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

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

\_\_\_\_\_  
**TELEPHONE NUMBER:** \_\_\_\_\_

**EMAIL ADDRESS:** \_\_\_\_\_

**FORM 2 – EMPLOYMENT REPORT**

The demographic employment make-up for the business submitting this Quote must be identified and submitted with this bid. In addition, if any lower tier supplier(s) will be utilized by the bidder to provide the goods/commodities requested, the demographic employment make-up of the lower tier supplier(s) must be identified and submitted with your response.

JOB CATEGORIES	WHITE (Not Hispanic Origin)		BLACK or AFRICAN AMERICAN (Not of Hispanic Origin)		HISPANIC or LATINO		AMERICAN INDIAN or ALASKAN NATIVE (AIAN)		ASIAN		NATIVE HAWAIIAN or OTHER PACIFIC ISLANDER (NHOP)		TWO or MORE RACES	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
EXECUTIVE/SENIOR LEVEL OFFICIALS and MANAGERS														
FIRST/MID LEVEL OFFICIALS MANAGERS														
PROFESSIONALS														
TECHNICIANS														
SALES WORKERS														
ADMINISTRATIVE SUPPORT WORKERS														
CRAFT WORKERS														
OPERATIVES														
LABORERS & HELPERS														
SERVICE WORKERS														
<b>TOTAL</b>														

Do you intend to utilize lower tier suppliers? Yes  No

If **Yes**, list each \_\_\_\_\_

Please identify if your business is 51% owned, operated and controlled by either of the following:

African- American  Hispanic-American  American-Indian  Asian  Native-Hawaiian   
Pacific Islander  or; owned by a Non-Minority

Firm's Name: \_\_\_\_\_

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

Phone: \_\_\_\_\_

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

Submitted by: \_\_\_\_\_

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

## SECTION 4

### SCOPE OF WORK AND TECHNICAL SPECIFICATIONS

This solicitation is for materials in all subject areas and reading levels.

The Atlanta-Fulton Public Library System (AFPLS) intends to contract with multiple vendors to provide shelf-ready books for adults, teens and children for a one year period with an option to renew the contract for two additional years. The intent and purpose of this solicitation is to provide the library with new materials and replacement copies of worn and grubby titles. In order to obtain the best possible range of materials and services, the County reserves the right to make multiple awards based on this solicitation. All responses must be made on the basis of, and either meet or exceed, the requirements contained herein.

The library purchases fiction and non-fiction for adults. That includes popular fiction and non-fiction but also titles from small, specialty or academic presses, reprints of classic titles, prepublication titles from popular authors, trade paperbacks, mass market paperbacks, and reference titles. The library seeks titles across the entire Dewey range of non-fiction. In adult fiction, the library collects popular fiction, local authors, the major genres, large print, urban fiction and African-American fiction.

The library purchases fiction and non-fiction for juvenile and young adult readers. In non-fiction, the library buys books across the entire Dewey range, but especially titles that support the school curricula and reading lists, African-American history and biography, and college prep materials. In fiction, the library buys the entire range of juvenile and YA fiction, focusing on popular juvenile authors and series, African-American subjects and authors, as well as picture books, board books, easy readers, graphic novels, and classics for all grade levels.

We seek a vendor(s) with an inventory of adult, young adult and juvenile fiction and non-fiction (in all Dewey ranges) large enough to supply the range of books described above. The inventory must include sufficient in-stock quantities of both older titles and new releases. The vendor must have a website through which the library can select and order books, including pre-publication books. The vendor must catalog and process books according to library specifications.

The library expects a fill-rate that meets or exceeds 90% of all items ordered.

## TECHNICAL SPECIFICATIONS

### A. Inventory, Selection, Ordering and Support:

The library must be able to use the Respondent's website both to select and to order these books. The following specifications apply to both adult and juvenile/YA books, unless specifically stated to apply only to one or the other:

1. Ninety-nine percent (99%) of all materials shipped shall be the correct title, edition and number of copies. No substitutions shall be made without prior written authorization from the library. Vendor shall supply the latest edition of a title unless an earlier edition is specified. Binding shall be of the quality commercially sold by the publisher for specific use by public libraries.
2. The website must feature a database of books that is searchable by author, title, subject, format, date of publication, publisher, ISBN, price, print run etc or any combination of those search terms. The entry in the database for each title should include access to reviews of the titles, basic bibliographic information, and relevant information like the size of the book's print run, any special media tie-ins etc.
3. The website must provide access to selection tools, such as lists of forthcoming high demand prepublication print titles, lists of honored or recommended books etc.
4. The website must show the real-time inventory of these books – the number on order or in stock. In-stock inventory must include hardcover, trade and mass market paperback, easy, picture and board books, series paperbacks, reference, fiction and non-fiction in all Dewey ranges in sufficient quantities to supply even multiple copies of each title. The inventory must cover product from the entire spectrum of publishers, including trade, academic and small presses and specialty publishers.
5. The website must also provide a duplicate check function and the ability to download orders to a spreadsheet as well as print them.
6. The Respondent must be able to provide on a regular basis selection lists or carts that are customized to the library's specifications or profile. Titles that appear on one selection list may not appear on any other selection list over the course of the year. The lists must be age-specific, with no overlap between juvenile and teen/young adult.

***AFPLS defines Juvenile as pre-school through age 12 and Young Adult as ages 13-19.***

7. The Respondent must be able to create multiple log-ons and passwords for up to 125 selectors, as well as for the account administrator. All orders from selectors will be sent to the Respondent from the account administrator.
8. Carts and lists must support centralized selection, i.e. permitting orders for multiple agencies for each title simultaneously, as well as permitting selectors to indicate whether this is to be processed as adult, juvenile, YA, reference, easy, or picture.
9. Provide an online electronic ordering system that interfaces with the Sirsidynix Acquisitions System at no charge to the Library. It should allow orders to be batched by accounts and provide same-day confirmation reports electronically.
10. Vendor must support Enriched EDI for ordering and invoicing and comply with the EDIFACT standard, which the Library has installed, providing the ability to send EDIFACT records which include item-specific information (such as SIRSI Bib #, branch code and quantity, collection code, item type, and call number), as well as the ability for vendor's records to automatically supply this information to the Symphony on-order record, including holdings at the time of order creation on Symphony.
11. Provide electronic invoicing via SirsiDynix modules and invoices which include for each title the number of copies, title, author, publisher, unit list price, rate of discount, net unit price and extended net amount, cataloging, processing and shipping charge, if any.
12. The library must be able to place orders via the Respondent website, including assigning a purchase order and account number, and transmitting the order to the Respondent. The library currently uses the following accounts for its book ordering:
  - a. Processed (separate accounts for adult, juvenile & YA processed)
  - b. Product only (separate accounts for adult, juvenile & YA product only)
  - c. Foundation grant product only
  - d. Foundation mini-grant product only
  - e. Various others, reflecting different library fund accounts for special projects. The Respondent must be able to create separate fund accounts for these and all of the above.

13. The Respondent must provide weekly reports showing, by branch, items ordered, shipped, back ordered and not yet published. There must be a separate weekly list of cancellations and reason for cancellation, by branch. Note: **All back orders are automatically cancelled after 90 days.**
14. The Respondent must accept personal orders for staff at the same discount offered to the library.
15. The Respondent must provide a project manager who will work closely with AFPLS Collection Management staff. A resume of the project manager should be included in the Respondent's proposal. The project manager must:
  - a. Have the authority to implement any changes to cataloging or processing specifications as requested by the library
  - b. Respond to calls and emails within 24 hours
  - c. Arrange regular conference calls or meetings to take feedback from Collection Management staff

## **B. Processing and Cataloging**

**AFPLS reserves the right to make amendments to any part of the specifications listed in this bid, as the need arises, based on changes in technology, software, MARC format, AACR2, OCLC, Dewey Decimal Classifications, ILS, or the method by which AFPLS catalogs/processes materials. The Respondent will be notified in writing via email of these changes and must agree to adjust their specs accordingly, within five (5) business days. Once the changes have been made, the Respondent must send the updated copy, via email, to the AFPLS project administrator (to be identified) for a signature as confirmation that the requested amendments were made and that they will be implemented upon receipt of said signature.**

Respondent must be able to provide MARC catalog records with appended holdings fields that can be loaded, indexed and retrieved by AFPLS' ILS, which is currently SIRSI Symphony, 3.5.1. Respondent must have exported and loaded bibliographic records, with appended 949 holdings creation fields, to be considered for selection.

*The Respondent must be able to deliver books fully cataloged and processed according to the following specifications.*

1. Respondent must provide the processing supplies needed for the shelf-ready services being provided, including the following:

- a. Labels (spine and pocket)
- b. RFID tags: The Library's new branches will use RFID technology. Therefore the vendor for this book contract must plan to give each book both a barcode (described below) and an RFID tag. RFID tags shall be:
  - 2"x 2" or 1.9"x 3.2" based upon process material.
  - 1024 bit memory
  - Compatible with an air interface device based on ISO/IEC 18000 standards.
  - Shall be compatible with a 13.56 MHz system.
  - Tag shall be capable of ISO/IEC 15963 data protocol.
- c. OCR/Barcode Labels – Barcode labels must conform to existing AFPLS standards for size, readability and composition:
  - Custom photocomposed OCR/barcode labels.
  - Size: Minimum of ¾ inch high by 2 inch wide
  - Minimum of 1/8 inch between barcode and OCR
  - Library name printed on top center of label: Atlanta-Fulton Public Library
  - Adhesive: 2 mil permanent adhesive
  - Laminate: 1 mil matte polyester
  - OCR number height: 1/8 inch
  - OCR Symbology: OCR/A; check digit: modulus 10 (CK05)
  - Barcode symbology: Code 39
  - Density; standard
  - Number of digits: One character "R" followed by ten random digits (0-9) with one space between 5th and 6th digits.
  - Not to exceed 2% missing
  - Starting and ending numbers: **(Will be provided by AFPLS).**
  - Barcode/OCR labels must interface successfully with the SIRSI ILS
  - OCRs must be readable by Opto-Wand dual port OCR wand, model 1001.
  - Barcodes must be readable by Intermec 9510 scanner & Intermec 9430 Trakker handheld scanner

**NOTE: Vendor must send approval sample sheet to AFPLS project administrator for testing and approval of the OCR labels before production.** Labels cannot be foil-backed, since foil-backed labels may interfere with checkpoint tags. AFPLSS's current vendor for item OCR/barcode labels is Brodart.

- d. Teeny Beeper check labels
- e. Book Jackets
- f. Cover-ups
- g. Book Pockets
- h. Property and agency stamps

2. Respondent will be required to provide these shelf ready services:
  - a. Correct stamp and label is used and placed in the correct locations on the book
  - b. Call number label is correct (reflects exactly the call number as it appears in the 099 and 949 bibliographic record fields) and formatted properly.
  - c. Call number label is legible and centered on the spine so that it may be read when the books are shelved.
  - d. OCR barcode label is affixed in the proper location on the book and matches the OCR in the corresponding 949 holdings record creation field
  - e. Mylar book jacket is affixed evenly and neatly
  - f. Book pockets are affixed in the proper position on the book
  - g. Checkpoint beeper is applied
  
3. Respondent must provide new catalog records, either through the editing of existing records in Respondent's bibliographic database or through the creation of original catalog records:
  - a. New catalog records must conform to AACR most current edition and USMARC standards, and must reflect any formally adopted changes to these standards throughout the life of the contract.
  - b. All name and subject headings must reflect the latest cataloging standards and provide full MARC21 records, with RDA implementation
  - c. Call numbers must be assigned in the 099 MARC field, according to the **Dewey Decimal Classification Scheme current edition** (and any subsequent published updates)
  - d. Respondent must subscribe, or have access through a bibliographic utility, to LC MARC catalog records.
  - e. Fixed Fields must be established and edited according to the most current edition of the OCLC Bibliographic Formats and Standards documents.
  - f. Respondents will use the following fields:
    - i. 010
    - ii. 020
    - iii. 022
    - iv. 028

- v. 035 – Local System # (OCoLC)
- vi. 049 – Use **GAPA**. Respondent must add this field to all formats of new materials cataloged for AFPLSS
- vii. 099 – Call number. For LC MARC records change the 082 field to 099 (see next section: *Classification*)
- viii. 1XX
- ix. 245 – A General Material Designator (GMD) must be added for all large print books. The GMD is subfield \$h. A statement of Responsibility appears in \$c
- x. 246
- xi. 300
- xii. 505 – Retain for juvenile books. Delete for young adult books.
- xiii. 520 – Retain for juvenile books. Delete for young adult books.
- xiv. 600, 650, 651, 655 – All large print books must have the subject heading 650 0 Large type books
- xv. 690 - Add local subject heading Young Adult material to Young Adult Materials.
- xvi. 7XX
- xvii. 949 Respondent must create 949 holdings record creation fields. The 949 fields include:
  - \$a call number
  - \$v volume or year
  - \$i item barcode
  - \$m library – BRANCH
  - \$l home location – ADULT or GEN\_COLL (for Central); JUVENILE or CEN\_TEEN (for Central) or YOUNG\_ADLT.
  - \$t item type – BOOK or BK\_CAT\_PBK or LARGE\_PRNT; JUV\_BOOK or J\_CAT\_PBK (juvenile); BOOK or BK\_CAT\_PBK (young adult).
  - \$x item cat 1 – FICTION, NONFICTION or LARGE PRINT
  - \$z item cat 2 - ADULT, JUVENILE, or YOUNG\_ADLT.

#### 4. Classification:

- a. Materials should be cataloged using the latest edition of the **Dewey Decimal Classification Scheme**. Dewey numbers should not exceed 4-6 numbers after the decimal point, with not more than 4 numbers preferred and no breaks within prime.
- b. Call numbers are entered in the 099 tag.

- c. AFPLS cutter consists of author's full last name, or the first significant word of title main entry. Cutters for biography and criticism consist of the last name of the person being critiqued. All letters should be uppercase. Juvenile and YA books use the prefixes \$aY for young adult and \$aJ for juvenile books.
- d. Large Print -When cataloging large print materials, LP should always be entered in the 099 field preceding the call number.
- e. Biographies - AFPLS uses "B" for all individual biographies and use the biographee's full last name as the cutter. Here are the exceptions:
  - i. 700's - If the book in hand offers a choice between the Dewey number and B, choose the Dewey number if the individual's biography is stressed or career and biography receive equal emphasis; otherwise, choose B and biographee's last name.
  - ii. 700's Artists, Painters, Sculptors - If the record offers a choice of a Dewey number or B, choose the 700 Dewey number and the last name of the artist, not the author.
  - iii. Collective Biographies - Use the Dewey number for adult/young adult books. Use J920 for Juvenile collective biographies.
  - iv. Individual, juvenile and young adult biographies are classed \$a J for juvenile, \$a Y for young adult with a \$a cutter using the full surname of the subject.
- f. Bibliographies, Filmographies, Discographies – Use the Dewey subject number, and add 016 to the end of call number. If the number exceeds the sixth position, carry the call number to the decimal or the first prime. If it is of a specific individual or group, enter the Dewey number and cutter for the last name of the individual or the name of the group.
- g. Criticism of an artist or literary author – Use the Dewey subject number and cutter for the author/artist.
- h. Collections of Short Stories – If by the same author should be classed as FICTION. If by more than one author should be classed in the Dewey numbers assigned for short stories, including those

displaying a specific type, subject or scope. Cutter for the first significant word of the title main entry.

- i. Travel Books – Cutter by the series name and year, not by the location. For example, A New England Eyewitness book should be 917.4 EYEWITNESS 2010 not 917.4 NEW 2010. Use the Dewey subject number for the location for all travel books including the following:
  - i. Bed and breakfast guides (instead of 647)
  - ii. Site-specific guides to hiking, canoeing, etc. (instead of 700s)
  - iii. Amusement park guidebooks (Walt Disney World, instead of 791)
  - iv. Guidebooks for specific national parks (e.g. Yellowstone)
  - v. Site-specific cruise guides (e.g. to the Caribbean)
- j. Juvenile and Young Adult State and Country Books - All country and state books are placed in the history section for that country.
- k. Juvenile Native Americans Books – Books with general information topics about Native American tribes are placed in 970.1. Books on specific Native American Tribes are placed in 970.4.
- l. Juvenile Picture Books – Classed with a \$a PICTURE, with a \$a cutter of the author's surname.
- m. Juvenile Easy Books – Classed with a \$a EASY, with a \$a cutter of the author's surname.

### **C. SIRSI System Loader**

*The Library's Integrated Library System loader must be able to use the Respondent's incoming data to add or overlay records in existing AFPLS database. Incoming data from the Respondent must supply correctly encoded data in the MARC record leader. **The following fields are considered as the matching mechanism and must be accurate and consistent:***

- ISBN (020 tag)
- ISBN/ISSN number
- LCCN number
- Respondent's own assigned ID number (001 tag)

1. MARC catalog records provided by the Respondent will fall into two categories:

**a. Added copy records**

Respondent searches the AFPLS database and determines that the book in hand exactly matches an existing record in the AFPLS database. Respondent must supply the nearest equivalent record in Respondent's bibliographic database with the **exact 020 tag** with new holdings record(s) appended in 949 tag(s). The Respondent's bibliographic record must be replaced by (or merged with) the existing AFPLS record by the System loader.

- i. Respondent must match on the alphabetic prefix as well as the numeric portion of the 001 tag -- Respondent identification number. Current 001 alphabetic prefixes in use are: EXAMPLE: 001: OCM135131, BRD00277843, bl2345678000
- ii. Loader must also match on the ISBN (020) and LCCN (010) fields. The Respondent must indicate any additional fields supported for record matching through the Respondent's system bibliographic loader.

**b. New catalog records**

Respondent must provide new catalog records, either through the editing of existing records in the Respondent's bibliographic database or through the creation of original catalog records.

- i. New catalog records must conform to AACR, latest edition, Rev. and US MARC standards and must reflect any formally adopted changes to these standards throughout the life of the contract.
- ii. All name and subject headings must reflect the latest authoritative version appearing in the online Library of Congress name and subject authority files, and supplemented by the latest paper, online or CD-ROM edition.
- iii. Call numbers must be assigned, in the 099 MARC field, according to the Dewey Decimal Classification Scheme (and any subsequent published updates).
- iv. Respondent must subscribe, or have access through a bibliographic utility, to LC MARC catalog records.

- v. New catalog records must conform fully to the requirements for cataloging.
- vi. Respondent will be required to maintain an error rate of 1% or less for bibliographic records for the following fields:

- 1) 010
- 2) 020
- 3) 022
- 4) 028
- 5) 099
- 6) 049
- 7) 1XX
- 8) 245
- 9) 246
- 10)300
- 11)600, 650, 651, 655, 690
- 12)7XX
- 13)949

## 2. Viewing APLS database for added copy status:

- a. Respondent must be able to view the existing AFPLS bibliographic database so that the book-in-hand can be matched against the AFPLS bibliographic database. Books that exactly match an existing record will be treated as added copy books.
- b. Respondent must be able to access the AFPLS database for read-only access using the Internet.
- c. Respondent will match book-in-hand against the AFPLS bibliographic database, and insert the exact 001 tag, as it appears in the AFPLS record, in the respondent's bibliographic record, to insure record overlay by the bibliographic loader.

## 3. Downloading records to AFPLS

- a. Respondent must be able to connect to the AFPLS database at the time of the contract to deliver MARC records to AFPLS via FTP or internet.
- b. Data should arrive at AFPLS preferably daily but at least twice a week, and must arrive at AFPLS not less than 24 hours prior to receipt by AFPLS of the items ordered.

- c. Respondent must provide with each data shipment a report counting the number of bibliographic records and the total number of holdings records, by agency, included in the shipment. Purchase order number(s) or other links to the book order(s) must reference this report
- d. Each data shipment must provide all bibliographic and holdings creation fields for a complete order shipment so that books are not received for which there are no records, and records are not received for which there are no corresponding books.

#### 4. Holdings Records

- a. Respondent must create 949 holdings record creation fields using the correct formats and codes for branch, location, call number, item type, item category 1, etc. Respondent must explain how respondent's system will maintain and validate AFPLS 949 codes, including the AFPLS barcode
- b. Respondent must transmit new titles added to the AFPLS database to OCLC for loading into the OCLC system to set AFPLS' holdings symbol (GAP)
- c. Respondent will be required to maintain an error rate of 2% or less for item records in the following areas:
  - i. branch, location, item type: correctly spelled and formatted code used;
  - ii. branch, location, item type: represents the correct book medium;
  - iii. call number, volume/part: correctly formatted;
  - iv. call number, volume/part: reflects book-in-hand and relevant information in bibliographic 099 field

## GENERAL CONDITIONS

*The Respondent must ship shelf-ready books to library agencies at no additional cost to the library.*

1. Shelf ready books must be drop shipped to individual branches. Shipments to branches must occur on weekdays during hours that the branch is open (See the attached exhibit which lists all branches and their hours of operation.) All deliveries to the Central Library are to an inside loading dock, and will be accepted only Monday through Friday between 8:30-4:30 EST. There may be no deliveries to any agency on holidays or weekends.
2. Rush shipments must be shipped by UPS or other delivery service to meet the required turnaround time. Delivery of rush shipments must also be during the hours described above.
3. All shipments must include a packing slip listing author, title, number of copies and ISBN of each title included, as well as "ship to" and "bill to" addresses, and the invoice and the purchase order numbers. The packing slip must also show the discount for each title. Any box in a shipment containing a packing slip must be clearly marked, "Packing Slip Included".
4. AFPLS will return all damaged books to the Respondent. The Respondent must replace the item free of charge or issue credits that can be used for future selections. The Respondent must arrange prepaid shipping for return of any damaged books.

## PRICING FORM

Respondent must complete all information requested on this Pricing Form, and must include all costs on this form. Alternative pricing information is not considered in determining vendor cost. Please note that quantities given are estimates only.

### MATERIALS PRICING

- In Column B, list the discount percentage offered for each item (1 thru 10) in the table below.
- In column D, show the discounted price when using the discount percentage offered to each price listed in column C.
- Multiply Column D by Column E to find Total Price for Column F

Item	A Category	B Discount % Offered	C Average Price	D Discounted Price	E Estimated Purchase Quantity	F Total
1	Adult trade hardcover fiction		\$28.73		59,154	\$
2	Adult trade hardcover non-fiction		\$26.55		26,811	\$
3	Adult trade paperback fiction		\$16.92		26,146	\$
4	Adult trade paperback non-fiction		\$21.47		30,572	\$
5	Adult mass market paperbacks		\$ 8.72		4,642	\$
6	YA trade hardcover		\$27.04		13,535	\$
7	YA trade paperback		\$14.37		20,525	\$
8	Juvenile hardcover		\$19.40		85,335	\$
9	Juvenile trade paperback		\$11.98		67,134	\$
10	Juvenile mass market paperback		\$ 7.25		15,116	\$
	<b>TOTAL MATERIALS COST</b>				<b>348,970</b>	<b>\$</b>

### SERVICES PRICING

Please give your per item cost for each service in Column A, then multiply that by the estimated quantities in B to get the total cost for each service for Column C

Item	Column A	B Per Item Cost	C Number of Items	D Total Cost
11	Physical processing	\$	348,970	\$
12	Original cataloging	\$	1,490	\$
13	Added copy cataloging	\$	347,480	\$
14	Freight, shipping	\$	348,970	\$
	<b>TOTAL SERVICES COST</b>			<b>\$</b>

Additional costs: Please list and explain any additional charges not included above:

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**TOTAL COST OF BOOKS AND SERVICES \$ \_\_\_\_\_**

### References

*The Respondent must list references from three public library systems for which Respondent(s) currently supplies catalogued and processed books in the amount of at least five hundred thousand dollars (\$500,000). The reference must include the name of the library system, the estimated number of books supplied and contact information for the library.*

<i>Name</i>	<i>Title</i>	<i>Organization</i>	<i>Email Address</i>	<i>Telephone</i>



**FULTON COUNTY**

**CONTRACT DOCUMENTS FOR**

**16ITBC104551B-BR**

**SHELF READY ADULT, TEEN and CHILDREN BOOKS**

**For**

**ATLANTA-FULTON PUBLIC LIBRARY**

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EXHIBIT H:	<u>PAYMENT &amp; PERFORMANCE BONDS (IF APPLICABLE)</u>

*Instructions to Purchasing Staff: Please make sure the above Exhibits List matches the Exhibits List in Article 1 and that those Exhibits are inserted into the Contract Agreement.*

**APPENDICES**

APPENDIX 1:	<u>APPLICATION FORMS</u>	<i>(Example)</i>
APPENDIX 2:	<u>PROCEDURES</u>	<i>(Example)</i>

*Only use Appendices if you are attaching Appendices, examples are listed above. Please make sure the above Appendices List matches the Appendices List in Article 1 if the Contract Agreement and that those Appendices are inserted into the Contract Agreement.*

**PURCHASING STAFF, REMOVE ALL INSTRUCTIONS IN  
YELLOW BEFORE INSERTING THIS DOCUMENT INTO THE  
RFP!!**

# CONTRACT AGREEMENT

Contractor: [Insert Contractor Name]  
Contract No.: [Insert Project Number and Title]  
Address: [Insert Contractor Address]  
City, State  
Telephone: [Insert Contractor telephone #]  
Email: [Insert Consultant Email]  
Contact: [Insert Contractor Contact Name]  
[Insert Contractor Contact Title]

This Agreement made and entered into effective the \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and between **FULTON COUNTY, GEORGIA**, a political subdivision of the State of Georgia, hereinafter referred to as "**County**", and **[INSERT CONTRACTOR COMPANY NAME]**, hereinafter referred to as "**Contractor**", authorized to transact business in the State of Georgia.

## WITNESSETH

WHEREAS, County through its [Insert User Department Name] hereinafter referred to as the "**Department**", desires to retain a qualified and experienced Contractor to perform [Insert project description/services to be provided], hereinafter, referred to as the "**Project**".

WHEREAS, Contractor has represented to County that it is experienced and has qualified and local staff available to commit to the Project and County has relied upon such representations.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, County and Contractor agree as follows:

### ARTICLE 1. CONTRACT DOCUMENTS

County hereby engages Contractor, and Contractor hereby agrees, to perform the services hereinafter set forth in accordance with this Agreement, consisting of the following contract documents:

- I. Form of Agreement;
- II. Addenda;
- III. Exhibit A: General Conditions;

- IV. Exhibit B: Special Conditions [where applicable]
- V. Exhibit C: Scope of Work
- VI. Exhibit D: Compensation;
- VII. Exhibit E: Purchasing Forms;
- VIII. Exhibit F: Contract Compliance Forms;
- IX. Exhibit G: Insurance and Risk Management Form;
- X. Exhibit H: Payment & Performance Bonds (if applicable)

The foregoing documents constitute the entire Agreement of the parties pertaining to the Project hereof and is intended as a complete and exclusive statement of promises, representations, discussions and agreements oral or otherwise that have been made in connection therewith. No modifications or amendment to this Agreement shall be binding upon the parties unless the same is in writing, conforms to Fulton County Purchasing Code §102-420 governing change orders, is signed by the County's and the Contractor's duly authorized representatives, and entered upon the meeting minutes of the Fulton County Board of Commissioners.

If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: 1) the Agreement, 2) the Bid document, 3) any Addenda, 4) change orders, 5) the exhibits, and 6) portions of Contractor's proposal that was accepted by the County and made a part of the Contract Documents.

The Agreement was approved by the Fulton County Board of Commissioners on [Insert Board of Commissioners approval date and item number].

## ARTICLE 2. SEVERABILITY

If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.

## ARTICLE 3. DESCRIPTION OF PROJECT

County and Contractor agree the Project is to perform [Insert project description]. All exhibits referenced in this agreement are incorporated by reference and constitute an integral part of this Agreement as if they were contained herein.

## ARTICLE 4. SCOPE OF WORK

Unless modified in writing by both parties in the manner specified in the agreement, duties of Contractor shall not be construed to exceed those services specifically set forth herein. Contractor agrees to provide all services, products, and data and to perform all tasks described in Exhibit C, Scope of Work.

## ARTICLE 5. SERVICES PROVIDED BY COUNTY

Contractor shall gather from County all available non-privileged data and information pertinent to the performance of the services for the Project. Certain services as described in Exhibit C, Scope of Work, if required, will be performed and furnished by County in a timely manner so as not to unduly delay Contractor in the performance of said obligations. County shall have the final decision as to what data and information is pertinent.

County will appoint in writing a County authorized representative with respect to work to be performed under this Agreement until County gives written notice of the appointment of a successor. The County's authorized representative shall have complete authority to transmit instructions, receive information, and define County's policies, consistent with County rules and regulations. Contractor may rely upon written consents and approvals signed by the County's authorized representative that are consistent with County rules and regulations.

## ARTICLE 6. MODIFICATIONS

If during the course of performing the Project, County and Contractor agree that it is necessary to make changes in the Project as described herein and referenced exhibits, such changes will be incorporated by written amendments in the form of Change Orders to this Agreement. Any such Change Order and/or supplemental agreement shall not become effective or binding unless approved by the Board of Commissioners and entered on the minutes. Such modifications shall conform to the requirements of the Fulton County Purchasing Code, §102-420 which is incorporated by reference herein.

## ARTICLE 7. SCHEDULE OF WORK

Contractor shall not proceed to furnish such services and County shall not become obligated to pay for same until a written authorization to proceed (Notice to Proceed) has been sent to Contractor from County. The Contractor shall begin work under this Agreement no later than five (5) days after the effective date of notice to proceed.

## ARTICLE 8. MULTI-YEAR CONTRACT TERM

***[Use this contract term if the contract is an annual contract with renewal options and funded with General Fund monies (Fund 100).]***

***[Please check with the department regarding funding, if the funding is grant funding, federal funding and/or capital funds the contract does not have to end on December 31<sup>st</sup> of the calendar year, use "Term of Contract" above.]***

The period of this Agreement shall consist of a series of Terms as defined below. The County is obligated only to pay such compensation under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during the County's then current fiscal year.

**a. Commencement Term**

The "Commencement Term" of this Agreement shall begin on [1<sup>st</sup> day of April 2016], the starting date, and shall end absolutely and without further obligation on the part of the county on the 31<sup>st</sup> day of December [Insert year]. The Commencement Term shall be subject to events of termination and the County's termination rights that are described elsewhere in this Agreement. Notwithstanding anything contained in this Agreement, the County's obligation to make payments provided under this Agreement shall be subject to the County's annual appropriations of funds for the goods, services, materials, property and/or supplies procured under this Agreement by the County's governing body and such obligation shall not constitute a pledge of the County's full faith and credit within the meaning of any constitutional debt limitation.

**b. Renewal Terms**

Unless the terms of this Agreement are fulfilled with no further obligation of the part of either party on or before the final date of the Commencement Term as stated above, or unless an event of termination as defined within this Agreement occurs during the Commencement Term, this Agreement may be renewed at the written option of the County upon the approval of the County Board of Commissioners for two (2) one-year ("Renewal Terms"). However, no Renewal Term of this Agreement shall be authorized nor shall any Renewal Term of this Agreement commence unless and until each Renewal Term has first been approved in writing by the County Board of Commissioners for the calendar year of such Renewal Term. If approved by the County Board of Commissioners, the First Renewal Term shall begin on the 1<sup>st</sup> day of January, 2015 and shall end no later than the 31<sup>st</sup> day of December, 2015. If approved by the County Board of Commissioners, the Second Renewal Term shall begin on the 1<sup>st</sup> day of January, 2015 and shall end no later than the 31<sup>st</sup> day of December, 2015. [More than two renewal options must be approved by the Purchasing Director]. If the County chooses not to exercise any Renewal Term as provided in this Section, then the Term of this Agreement then in effect shall also be deemed the "Ending Term" with no further obligation on the party of either party.

**c. Term Subject to Events of Termination**

All "Terms" as defined within this Section are subject to the section of this Agreement which pertain to events of termination and the County's rights upon termination.

**d. Same Terms**

Unless mutually agreed upon in writing by the parties, or otherwise indicated herein, all provisions and conditions of any Renewal Term shall be exactly the same as those contained within in this Agreement.

**e. Statutory Compliance Regarding Purchase Contracts.**

The parties intend that this Agreement shall, and this Agreement shall operate in conformity with and not in contravention of the requirements of O.C.G.A. § 36-60-13, as applicable, and in the event that this Agreement would conflict therewith, then this Agreement shall be interpreted and implemented in a manner consistent with such statute.

**ARTICLE 9. COMPENSATION**

Compensation for work performed by Contractor on Project shall be in accordance with the payment provisions and compensation schedule, attached as Exhibit D, Compensation.

The total contract amount for the Project shall not exceed [Insert amount approved by BOC], (Insert dollar number in words) Example: \$500,000.00 (Five Hundred Thousand Dollars and No Cents), which is full payment for a complete scope of work.

**ARTICLE 10. PERSONNEL AND EQUIPMENT**

Contractor shall designate in writing a person(s) to serve as its authorized representative(s) who shall have sole authority to represent Contractor on all manners pertaining to this contract.

Contractor represents that it has secured or will secure, at its' own expense, all equipment and personnel necessary to complete this Agreement, none of whom shall be employees of or have any contractual relationship with County. All of the services required hereunder will be performed by Contractor under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under law to perform such services.

Written notification shall be immediately provided to County upon change or severance of any of the authorized representative(s), listed key personnel or subcontractor performing services on this Project by Contractor. No changes or substitutions shall be permitted in Contractor's key personnel or subcontractor as set forth herein without the prior written approval of the County. Requests for changes in key personnel or subcontractors will not be unreasonably withheld by County.

## ARTICLE 11. SUSPENSION OF WORK

**Suspension Notice:** The County may by written notice to the Contractor, suspend at any time the performance of all or any portion of the services to be performed under this Agreement. Upon receipt of a suspension notice, the Contractor must, unless the notice requires otherwise:

- 1) Immediately discontinue suspended services on the date and to the extent specified in the notice;
- 2) Place no further orders or subcontracts for material, services or facilities with respect to suspended services, other than to the extent required in the notice; and
- 3) Take any other reasonable steps to minimize costs associated with the suspension.

**Notice to Resume:** Upon receipt of notice to resume suspended services, the Contractor will immediately resume performance under this Agreement as required in the notice.

## ARTICLE 12. DISPUTES

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the County. The representative shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The Contractor shall have 30 days from date the decision is sent to appeal the decision to the County Manager or his designee by mailing or otherwise furnishing to the County Manager or designee, copy of the written appeal. The decision of the County Manager or his designee for the determination of such appeal shall be final and conclusive. This condition shall not be pleaded in any suit involving a question of fact arising under this Agreement, unless the same is fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence. In connection with any appeal proceeding under this clause, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of an appeal. Pending any final decision of a dispute hereunder, Contractor shall proceed diligently with performance of the Agreement and in accordance with the decision of the County's designated representative.

## ARTICLE 13. TERMINATION OF AGREEMENT FOR CAUSE

- (1) Either County or Contractor may terminate work under this Agreement in the event the other party fails to perform in accordance with the provisions of the Agreement. Any party seeking to terminate this Agreement is required to give thirty (30) days prior written notice to the other party.

- (2) Notice of termination shall be delivered by certified mail with receipt for delivery returned to the sender.
- (3) **TIME IS OF THE ESSENCE** and if the Contractor refuses or fails to perform the work as specified in Exhibit C, Scope of Work and maintain the scheduled level of effort as proposed, or any separable part thereof, with such diligence as will insure completion of the work within the specified time period, or any extension or tolling there of, or fails to complete said work within such time. The County may exercise any remedy available under law or this Agreement. Failure to maintain the scheduled level of effort as proposed or deviation from the aforesaid proposal without prior approval of County shall constitute cause for termination
- (4) The County may, by written notice to Contractor, terminate Contractor's right to proceed with the Project or such part of the Project as to which there has been delay. In such event, the County may take over the work and perform the same to completion, by contract or otherwise, and Contractor shall be required to provide all copies of finished or unfinished documents prepared by Contractor under this Agreement.
- (5) Contractor shall be entitled to receive compensation for any satisfactory work completed on such documents as reasonably determined by the County.
- (6) Whether or not the Contractor's right to proceed with the work has been terminated, the Contractor shall be liable for any damage to the County resulting from the Contractor's refusal or failure to complete the work within the specified time period, and said damages shall include, but not be limited to, any additional costs associated with the County obtaining the services of another Contractor to complete the project.

#### ARTICLE 14. TERMINATION FOR CONVENIENCE OF COUNTY

Notwithstanding any other provisions, the County may terminate this Agreement for its convenience at any time by a written notice to Contractor. If the Agreement is terminated for convenience by the County, as provided in this article, Contractor will be paid compensation for those services actually performed. Partially completed tasks will be compensated for based on a signed statement of completion to be submitted by Contractor which shall itemize each task element and briefly state what work has been completed and what work remains to be done.

If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the government.

## ARTICLE 15. WAIVER OF BREACH

The waiver by either party of a breach or violation of any provision of this Agreement, shall not operate or be construed to be, a waiver of any subsequent breach or violation of the same or other provision thereof.

## ARTICLE 16. INDEPENDENT CONTRACTOR

Contractor shall perform the services under this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with such relationship or status. Nothing in this Agreement shall be interpreted or construed to constitute Contractor or any of its agents or employees to be the agent, employee or representative of County.

## ARTICLE 17. RESPONSIBILITY OF CONTRACTOR

Contractor represents that it has, or will secure at its own expenses, all personnel appropriate to perform all work to be completed under this Agreement;

All the services required hereunder will be performed by Contractor or under the direct supervision of Contractor. All personnel engaged in the Project by Contractor shall be fully qualified and shall be authorized or permitted under applicable State and local law to perform such services.

None of the work or services covered by this Agreement shall be transferred, assigned, or subcontracted by Contractor without the prior written consent of the County.

## ARTICLE 18. INDEMNIFICATION

**18.1 Non-Professional Services Indemnification.** Consultant/Contractor hereby agrees to indemnify and hold harmless Fulton County, its Commissioners and their respective officers, members, employees, and agents (each, hereinafter referred to as an "Indemnified Person") from and against any and all claims, demands, liabilities, losses, costs or expenses, including attorneys' fees due to liability to a third party or parties, for any loss due to bodily injury (including death), personal injury, and property damage arising out of or resulting from the performance of this Agreement or any act or omission on the part of the Consultant/Contractor, its agents, employees or others working at the direction of Consultant/Contractor or on its behalf, or due to any breach of this Agreement by the Consultant/Contractor or due to the application or violation of any pertinent Federal, State or local law, rule or regulation. This indemnification is binding upon to the successors and assigns of Consultant/Contractor. This indemnification does not extend to the sole negligence of the Indemnified Persons nor beyond the scope of this Agreement and the work undertaken thereunder. This indemnification survives the termination of this Agreement and shall also survive the dissolution or to the

extent allowed by law, the bankruptcy of Consultant/Contractor.

Consultant/Contractor obligation to indemnify and hold harmless, as set forth hereinabove, shall also include, but is not limited to, any matter arising out of any actual or alleged infringement of any patent, trademark, copyright, or service mark, or other actual or alleged unfair competition disparagement of product or service, or other tort or any type whatsoever, or any actual or alleged violation of trade regulations.

Consultant/Contractor further agrees to indemnify and hold harmless Fulton County, its Commissioners, officers, employees, subcontractors, successors, assigns and agents from and against any and all claims or liability for compensation under the Worker's Compensation Act, Disability Benefits Act, or any other employee benefits act arising out of injuries sustained by any employees of Consultant/Contractor. These indemnities shall not be limited by reason of the listing of any insurance coverage.

**18.2 Notice of Claim.** If an Indemnified Person receives written notice of any claim or circumstance which could give rise to indemnified losses, the receiving party shall promptly give written notice to Consultant/Contractor, and shall use best efforts to deliver such written notice within ten (10) Business Days. The notice must include a copy of such written notice of claim, or, if the Indemnified Person did not receive a written notice of claim, a description of the indemnification event in reasonable detail and the basis on which indemnification may be due. Such notice will not stop or prevent an Indemnified Person from later asserting a different basis for indemnification. If an Indemnified Person does not provide this notice within the ten (10) Business Day period, it does not waive any right to indemnification except to the extent that Consultant/Contractor is prejudiced, suffers loss, or incurs additional expense solely because of the delay.

**18.3 Defense.** Consultant/Contractor, at Consultant/Contractor's own expense, shall defend each such action, suit, or proceeding or cause the same to be resisted and defended by counsel designated by the Indemnified Person and reasonably approved by Consultant/Contractor (provided that in all instances the County Attorney of Fulton County Georgia shall be acceptable, and, for the avoidance of doubt, is the only counsel authorized to represent the County). If any such action, suit or proceedings should result in final judgment against the Indemnified Person, Consultant/Contractor shall promptly satisfy and discharge such judgment or cause such judgment to be promptly satisfied and discharged. Within ten (10) Business Days after receiving written notice of the indemnification request, Consultant/Contractor shall acknowledge in writing delivered to the Indemnified Person (with a copy to the County Attorney) that Consultant/Contractor is defending the claim as required hereunder.

#### **18.4 Separate Counsel.**

**18.4.1 Mandatory Separate Counsel.** In the event that there is any potential conflict of interest that could reasonably arise in the representation of any Indemnified Person and Consultant/Contractor in the defense of any action, suit or proceeding pursuant to Section 18.3 above or in the event that state or local law requires the use of specific counsel, (i) such Indemnified Person may elect in its sole and absolute discretion whether to waive such conflict of interest, and (ii) unless such Indemnified Person (and, as applicable, Consultant/Contractor) elects to waive such conflict of interest, or in any event if required by state or local law, then the counsel designated by the Indemnified Person shall solely represent such Indemnified Person and, if applicable, Consultant/Contractor shall retain its own separate counsel, each at Consultant/Contractor's sole cost and expense.

**18.4.2 Voluntary Separate Counsel.** Notwithstanding Consultant/Contractor's obligation to defend a claim, the Indemnified Person may retain separate counsel to participate in (but not control or impair) the defense and to participate in (but not control or impair) any settlement negotiations, provided that for so long as Consultant/Contractor has complied with all of Consultant/Contractor's obligations with respect to such claim, the cost of such separate counsel shall be at the sole cost and expense of such Indemnified Person (provided that if Consultant/Contractor has not complied with all of Consultant/Contractor's obligations with respect to such claim, Consultant/Contractor shall be obligated to pay the cost and expense of such separate counsel). Consultant/Contractor may settle the claim without the consent or agreement of the Indemnified Person, unless the settlement (i) would result in injunctive relief or other equitable remedies or otherwise require the Indemnified Person to comply with restrictions or limitations that adversely affect or materially impair the reputation and standing of the Indemnified Person, (ii) would require the Indemnified Person to pay amounts that Consultant/Contractor or its insurer does not fund in full, (iii) would not result in the Indemnified Person's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement, or (iv) directly involves the County (in which case the County of Fulton County, Georgia shall be the only counsel authorized to represent the County with respect to any such settlement).

**18.5 Survival.** The provisions of this Article will survive any expiration or earlier termination of this Agreement and any closing, settlement or other similar event which occurs under this Agreement.

#### **ARTICLE 19. COVENANT AGAINST CONTINGENT FEES**

Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide

employees maintained by Contractor for the purpose of securing business and that Contractor has not received any non-County fee related to this Agreement without the prior written consent of County. For breach or violation of this warranty, County shall have the right to annul this Agreement without liability or at its discretion to deduct from the Contract Price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

#### ARTICLE 20. INSURANCE

Contractor agrees to obtain and maintain during the entire term of this Agreement, all of the insurance required as specified in the Agreement documents, Exhibit G, Insurance and Risk Management Forms, with the County as an additional insured and shall furnish the County a Certificate of Insurance showing the required coverage. The cancellation of any policy of insurance required by this Agreement shall meet the requirements of notice under the laws of the State of Georgia as presently set forth in the Georgia Code.

#### ARTICLE 21. PROHIBITED INTEREST

##### Section 21.01 Conflict of interest:

Contractor agrees that it presently has no interest and shall acquire no interest direct or indirect that would conflict in any manner or degree with the performance of its service hereunder. Contractor further agrees that, in the performance of the Agreement, no person having any such interest shall be employed.

##### Section 21.02 Interest of Public Officials:

No member, officer or employee of County during his tenure shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

#### ARTICLE 22. SUBCONTRACTING

Contractor shall not subcontract any part of the work covered by this Agreement or permit subcontracted work to be further subcontracted without prior written approval of County.

#### ARTICLE 23. ASSIGNABILITY

Contractor shall not assign or subcontract this Agreement or any portion thereof without the prior expressed written consent of County. Any attempted assignment or subcontracting by Contractor without the prior expressed written consent of County shall at County's sole option terminate this Agreement without any notice to Contractor of such termination. Contractor binds itself, its successors, assigns, and legal representatives of such other party in respect to all covenants, agreements and obligations contained herein.

#### **ARTICLE 24. ANTI-KICKBACK CLAUSE**

Salaries of engineers, surveyors, draftsmen, clerical and technicians performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory by law. Contractor hereby promises to comply with all applicable "Anti-Kickback" Laws, and shall insert appropriate provisions in all subcontracts covering work under this Agreement.

#### **ARTICLE 25. AUDITS AND INSPECTORS**

At any time during normal business hours and as often as County may deem necessary, Contractor shall make available to County and/or representatives of the County for examination all of its records with respect to all matters covered by this Agreement.

It shall also permit County and/or representative of the County to audit, examine and make copies, excerpts or transcripts from such records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. Contractor's records of personnel, conditions of employment, and financial statements (hereinafter "Information") constitute trade secrets and are considered confidential and proprietary by Contractor. To the extent County audits or examines such Information related to this Agreement, County shall not disclose or otherwise make available to third parties any such Information without Contractor's prior written consent unless required to do so by a court order. Nothing in this Agreement shall be construed as granting County any right to make copies, excerpts or transcripts of such information outside the area covered by this Agreement without the prior written consent of Contractor. Contractor shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the Project and used in support of its proposal and shall make such material available at all reasonable times during the period of the Agreement and for eight years from the date of final payment under the Agreement, for inspection by County or any reviewing agencies and copies thereof shall be furnished upon request and at no additional cost to County. Contractor agrees that the provisions of this Article shall be included in any Agreements it may make with any subcontractor, assignee or transferee.

#### **ARTICLE 26. ACCOUNTING SYSTEM**

Contractor shall have an accounting system, which is established, and maintaining in accordance with generally accepted accounting principles. Contractor must account for cost in a manner consistent with generally accepted accounting procedures, as approved by Fulton County.

## ARTICLE 27. VERBAL AGREEMENT

No verbal agreement or conversation with any officer, agent or employee of County either before, during or after the execution of this Agreement, shall affect or modify any of the terms of obligations herein contained, nor shall such verbal agreement or conversation entitle Contractor to any additional payment whatsoever under the terms of this Agreement. All changes to this shall be in writing and the form of a change order in supplemental agreement, approved by the County, and entered on the Minutes of the Board of Commissioners.

## ARTICLE 28. NOTICES

All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

Notice to County, shall be addressed as follows:

[Insert User Department Representative Position for project]

[Insert User Department Address

Atlanta, Georgia 30303

Telephone:

Email:

Attention: [Insert User Department Representative for project]

### **With a copy to:**

Department of Purchasing & Contract Compliance

Director

130 Peachtree Street, S.W., Suite 1168

Atlanta, Georgia 30303

Telephone: (404) 612-5800

Email: felicia.strong-whitaker@fultoncountyga.gov

Attention: Felicia Strong-Whitaker

Notices to Contractor shall be addressed as follows:

[Insert Contractor Representative for project]

[Insert Contractor Address]

Telephone:

Email:

Attention: [Insert Contractor Representative for project]

## ARTICLE 29. JURISDICTION

This Agreement will be executed and implemented in Fulton County. Further, this Agreement shall be administered and interpreted under the laws of the State of Georgia. Jurisdiction of litigation arising from this Agreement shall be in the

Fulton County Superior Courts. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in full force and effect.

Whenever reference is made in the Agreement to standards or codes in accordance with which work is to be performed, the edition or revision of the standards or codes current on the effective date of this Agreement shall apply, unless otherwise expressly stated.

### ARTICLE 30. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, Contractor agrees as follows:

Section 30.01 Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin;

Section 30.02 Contractor will, in all solicitations or advertisements for employees placed by, or on behalf of, Contractor state that all qualified applicants, will receive consideration for employment without regard to race, creed, color, sex or national origin;

Section 30.03 Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Agreement so that such provision will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

### ARTICLE 31. FORCE MAJEURE

Neither County nor Contractor shall be deemed in violation of this Agreement if either is prevented from performing its obligations hereunder for any reason beyond its control, including but not limited to acts of God, civil or military authority, act of public enemy, accidents, fires, explosions, earthquakes, floods or catastrophic failures of public transportation, provided however, that nothing herein shall relieve or be construed to relieve Contractor from performing its obligations hereunder in the event of riots, rebellions or legal strikes.

### ARTICLE 32. OPEN RECORDS ACT

The Georgia Open Records Act, O.C.G.A. Section 50-18-70 et seq., applies to this Agreement. The Contractor acknowledges that any documents or computerized data provided to the County by the Contractor may be subject to release to the public. The Contractor also acknowledges that documents and computerized data created or held by the Contractor in relation to the Agreement may be subject to release to the public, to include documents turned over to the County. The Contractor shall cooperate with and provide assistance to the

County in rapidly responding to Open Records Act requests. The Contractor shall notify the County of any Open Records Act requests no later than 24 hours following receipt of any such requests by the Contractor. The Contractor shall promptly comply with the instructions or requests of the County in relation to responding to Open Records Act requests.

### ARTICLE 33. INVOICING AND PAYMENT

Contractor shall submit monthly invoices for work performed during the previous calendar month, in a form acceptable to the County and accompanied by all support documentation requested by the County, for payment and for services that were completed during the preceding phase. The County shall review for approval of said invoices. The County shall have the right not to pay any invoice or part thereof if not properly supported, or if the costs requested or a part thereof, as determined by the County, are reasonably in excess of the actual stage of completion.

**Time of Payment:** Invoices for payment shall be submitted to County by the first (1st) calendar day of the month to facilitate processing for payment in that same month. Invoices received after the first (1st) calendar day of the month may not be paid until the last day of the following month. The County shall make payments to Contractor by U.S. mail approximately thirty (30) days after receipt of a proper invoice. Parties hereto expressly agree that the above contract term shall supersede the rates of interest, payment periods, and contract and subcontract terms provided for under the Georgia Prompt Pay Act, O.C.G.A. 13-11-1 et seq., pursuant to 13-11-7(b), and the rates of interest, payment periods, and contract and subcontract terms provided for under the Prompt Pay Act shall have no application to this Agreement; parties further agree that the County shall not be liable for any interest or penalty arising from late payments.

**Submittal of Invoices:** Invoices shall be submitted as follows:

**Via Mail:**

Fulton County Government  
141 Pryor Street, SW  
Suite 7001  
Atlanta, Georgia 30303  
Attn: Finance Department – Accounts Payable

OR

**Via Email:**

Email: [Accounts.Payable@fultoncountyga.gov](mailto:Accounts.Payable@fultoncountyga.gov)

At minimum, original invoices must reference all of the following information:

- 1) Vendor Information

- a. Vendor Name
- b. Vendor Address
- c. Vendor Code
- d. Vendor Contact Information
- e. Remittance Address

2) Invoice Details

- a. Invoice Date
- b. Invoice Number (uniquely numbered, no duplicates)
- c. Purchase Order Reference Number
- d. Date(s) of Services Performed
- e. Itemization of Services Provided/Commodity Units

3) Fulton County Department Information (needed for invoice approval)

- a. Department Name
- b. Department Representative Name

Contractor's cumulative invoices shall not exceed the total not-to-exceed fee established for this Agreement.

**Optional: [A narrative of one (1) page only, listing the scope of work/services billed for shall accompany each invoice.]**

**County's Right to Withhold Payments:** The County may withhold payments for services that involve disputed costs, involve disputed audits, or are otherwise performed in an inadequate fashion. Payments withheld by the County will be released and paid to the Contractor when the services are subsequently performed adequately and on a timely basis, the causes for disputes are reconciled or any other remedies or actions stipulated by the County are satisfied. The County shall promptly pay any undisputed items contained in such invoices.

**Payment of Sub-contractors/Suppliers:** The Contractor must certify in writing that all sub-contractors of the Contractor and suppliers have been promptly paid for work and materials and previous progress payments received. In the event the prime Contractor is unable to pay sub-contractors or suppliers until it has received a progress payment from Fulton County, the prime Contractor shall pay all sub-contractors or supplier funds due from said progress payments within forty-eight (48) hours of receipt of payment from Fulton County and in no event later than fifteen days as provided for by State Law.

**Acceptance of Payments by Contractor; Release.** The acceptance by the Contractor of any payment for services under this Agreement will, in each instance, operate as, and be a release to the County from, all claim and liability to the Contractor for work performed or furnished for or relating to the service for which payment was accepted, unless the Contractor within five (5) days of its

receipt of a payment, advises the County in writing of a specific claim it contends is not released by that payment.

#### ARTICLE 34. 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 materials, equipment, and labor for the work provided by the Contractor which are legally enacted by any municipal, county, state or federal authority, department or agency at the time bids are received, whether or not yet effective. The Contractor shall maintain records pertaining to such taxes as well as payment thereof and shall make the same available to the County at all reasonable times for inspection and copying. The Contractor shall apply for any and all tax exemptions which may be applicable and shall timely request from the County such documents and information as may be necessary to obtain such tax exemptions. The County shall have no liability to the Contractor for payment of any tax from which it is exempt.

#### ARTICLE 35. PERMITS, LICENSES AND BONDS

All permits and licenses necessary for the work shall be secured and paid for by the Contractor. 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, the Contractor shall not be entitled to additional compensation or time.

#### ARTICLE 36. NON-APPROPRIATION

This Agreement states the total obligation of the County to the Contractor for the calendar year of execution. Notwithstanding anything contained in this Agreement, the obligation of the County to make payments provided under this Agreement shall be subject to annual appropriations of funds thereof by the governing body of the County and such obligation shall not constitute a pledge of the full faith and credit of the County within the meaning of any constitutional debt limitation. The Director of Finance shall deliver written notice to the Contractor in the event the County does not intend to budget funds for the succeeding Contract year.

Notwithstanding anything contained in this Agreement, if sufficient funds have not been appropriated to support continuation of this Agreement for an additional calendar year or an additional term of the Agreement, this Agreement shall terminate absolutely and without further obligation on the part of the County at the close of the calendar year of its execution and at the close of each succeeding calendar year of which it may be renewed, unless a shorter termination period is provided or the County suspends performance pending the appropriation of funds.

### ARTICLE 37. WAGE CLAUSE

Contractor shall agree that in the performance of this Agreement the Contractor will comply with all lawful agreements, if any, which the Contractor had made with any association, union, or other entity, with respect to wages, salaries, and working conditions, so as not to cause inconvenience, picketing, or work stoppage.

**IN WITNESS THEREOF**, the Parties hereto have caused this Contract to be executed by their duly authorized representatives as attested and witnessed and their corporate seals to be hereunto affixed as of the day and year date first above written.

OWNER:

**FULTON COUNTY, GEORGIA**

CONTRACTOR:

**[INSERT CONTRACTOR  
COMPANY NAME ]**

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John H. Eaves, Commission Chair  
Board of Commissioners

---

[Insert Name & Title of person  
authorized to sign contract]

ATTEST:

ATTEST:

---

Mark Massey  
Clerk to the Commission (Seal)

---

Secretary/  
Assistant Secretary

(Affix Corporate Seal)

APPROVED AS TO FORM:

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Office of the County Attorney

APPROVED AS TO CONTENT:

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[Insert Department Head Name]  
[Insert Department Head Title]

# **ADDENDA**

Instructions for Users: Acknowledgement(s) of any addenda should be inserted behind this cover sheet.

**EXHIBIT A**

**GENERAL CONDITIONS**

## GENERAL CONDITIONS

1. Bids may be withdrawn upon receipt of a written request prior to the stated due date and time. If a firm seeks to withdraw a bid after the due date and time, the firm must present a notarized statement indicating that an error was made, with an explanation of how it occurred. The withdrawal request must be accompanied by documentation supporting the claim. Prior to approving or disapproving the request, an opinion will be obtained from Fulton County's Legal Counsel indicating whether the firm is bound by its bid submittal.

Bids for projects that are solicited pursuant to the Georgia Local Government Public Works Construction Law (O.C.G.A. § 36-91-1 et seq.) may be withdrawn as follows:

The County must advise Bidders in the invitation to bid of the number of days that Bidders will be required to honor their bids. If an Bidder is not selected within 60 days of opening the bids, any Bidder that is determined by the governmental entity to be unlikely of being selected for contract award will be released from the bid.

2. Fulton County shall be the sole judge of the quality and the applicability of all bids. Design, features, overall quality, local facilities, terms and other pertinent considerations will be taken into account in determining acceptability.
3. The successful Bidder must assume full responsibility for delivery of all goods and services proposed.
4. The successful Bidder must assume full responsibility for replacement of all defective or damaged goods and/or performance of contracted services within thirty (30) days' notice by the County of such defect, damage or deficiency.
5. The successful Bidder must assume full responsibility for providing warranty service on all goods, materials, or equipment provided to the County with warranty coverage. Should a vendor be other than the manufacturer, the vendor and not the County is responsible for contacting the manufacturer. The Bidder is solely responsible for arranging for the service to be performed.
6. The successful Bidder shall be responsible for the proper training and certification of personnel used in the performance of the services proposed.
7. The successful Bidder shall not assign, transfer, convey, sublet, or otherwise dispose of any contract resulting from the invitation to bid or of

any of its rights, title or interest therein without prior written consent of the Fulton County Board of Commissioners.

8. In case of default by the successful Bidder, Fulton County may procure the articles or services from another source and hold the successful Vendor responsible for any resultant excess cost.
9. All bids submitted to Fulton County are subject to the Georgia "Open Records Act", Official Code of Georgia, Annotated (O.C.G.A.) § 50-18-70 et seq.
10. All bids submitted to Fulton County involving Utility Contracting are subject to the Georgia law governing licensing of Utility Contractors, O.C.G.A. §43-14-8.2(h).

## **EXHIBIT B**

### **SPECIAL CONDITIONS**

Instructions for Users: Insert any Special Conditions that were in the solicitation document behind this cover sheet. If no Special Conditions were required, on a separate page behind this cover page please use the following language:

**No Special Conditions were required for this Project**

# **EXHIBIT C**

## **SCOPE OF WORK**

Instructions for Users: Insert the detailed Scope of Work to be provided by the Contractor behind this cover sheet.

## SCOPE OF WORK

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The Contractor shall provide [insert the scope of work from the solicitation document].

# **EXHIBIT D**

## **COMPENSATION**

Instructions for Users: Insert the detailed Compensation to Contractor (payment to contractor providing service) behind this cover sheet.

For Lowest Responsible Bidder contracts insert the entire Bid Form from the Bid submittal.

# COMPENSATION

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The County agrees to compensate the Consultant as follows:

County agrees to compensate Contractor for all services performed under this Agreement in an amount not to exceed \$XXX,XXX.XX (One Hundred Thirteen Thousand, Two Hundred Forty Dollars and Thirty Two Cents) , which is full payment for a complete scope of work. The detailed costs are provided in the attached Bid Form.

# **EXHIBIT E**

## **PURCHASING FORMS**

Instructions for Users: Insert the Purchasing forms submitted by the Contractor. Please contact Purchasing to insure you have the correct forms. Insert forms behind this cover sheet.

# **EXHIBIT F**

## **CONTRACT COMPLIANCE FORMS**

Instructions for Users: Insert the Contract Compliance forms submitted by the Contractor. Please contact Contract Compliance to insure you have the correct forms. Insert forms behind this cover sheet.

## **EXHIBIT G**

# **INSURANCE AND RISK MANAGEMENT FORMS**

Instructions for Users: Insert the following information behind this cover sheet.

1. Insurance and Risk Management Provisions from Solicitation Document

The following information should be inserted after you have received submittals from the Contractor:

1. Certificate of Insurance

## **EXHIBIT H**

### **PAYMENT & PERFORMANCE BONDS**

Instructions for Users: The following information should be inserted after you have received submittals from the Contractor.