



REQUEST FOR PROPOSAL NUMBER 14RFP073113K-JAJ

**STANDBY PROFESSIONAL SERVICES FOR
FACILITIES RELATED PLANNING, DESIGN,
ENGINEERING AND ASSESSMENTS –
ARCHITECTURAL & ENGINEERING SERVICES**

For

FACILITIES AND TRANSPORTATION SERVICES DEPARTMENT

RFP DUE DATE AND TIME: May 16, 2014 at 11:00 AM

RFP ISSUANCE DATE: April 9, 2014

PRE-BID CONFERENCE DATE: April 25, 2014

PURCHASING CONTACT: James A. Jones, Assistant Purchasing Agent

E-MAIL: james.jones@fultoncountyga.gov

**LOCATION: FULTON COUNTY DEPARTMENT OF PURCHASING &
CONTRACT COMPLIANCE
130 PEACHTREE STREET, S.W., SUITE 1168
ATLANTA, GA 30303**

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SECTION 1 INTRODUCTION

1.1 PROJECT DESCRIPTION

Fulton County, Georgia ("County") is seeking Proposals from experienced and qualified vendors to provide Standby Professional Services for Facilities related Planning, Design, Engineering and Assessments in support of the Facilities and Transportation Services Department to establish one (1) or more stand-by contracts for each group or discipline identified within this Request for Proposal (RFP) on an "as needed-task assignment" basis.

The services being sought under this Request for Proposals (RFP) are professional in nature. The evaluation of the proposals will be based on consideration of the demonstrated responsiveness to the RFP criteria as described in this solicitation document. To be considered proposers must possess, and be prepared to provide expertise, resources and personnel experienced in the various phases of planning, design and engineering. Under the Standby Contract, the Proposer shall furnish all design, labor, materials and equipment needed to perform the work.

Proposals provided in response to this RFP that comply with the submittal requirements set forth in Section 4.0, including all forms and certifications, will be evaluated in accordance with the criteria and procedures described in Section 5.0. Based on the results of the evaluation, the County will award the Facilities & Transportation Services Standby Professional Services for Facilities Related Planning, Design, Engineering and Assessments – Architecture & Engineering Services to the most advantageous Proposer based on the evaluation factors and the cost set forth in the RFP.

1.2 BACKGROUND

The Facilities & Transportation Services Standby Professional Services for Facilities Related Planning, Design, Engineering and Assessments – Architecture & Engineering Services program is a recurring program that provides professional services on a tasking basis for a variety of projects.

1.3 COUNTY OBJECTIVES

Fulton County desires to retain a qualified and experienced Consultant to provide Architectural & Engineering Services for various projects in County facilities on a task need basis.

1.4 OBTAINING THE RFP

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

1.5 SUBCONTRACTING OPPORTUNITIES

Potential prime contractors submitting a bid on this project for Fulton County and are seeking subcontractors and/or suppliers can advertise those subcontracting opportunities on the County's website, <http://www.fultoncountyga.gov> under "Subcontracting Bid Opportunities".

1.6 PRE-PROPOSAL CONFERENCE

The County will hold a Pre-Proposal Conference, on **April 25, 2014 at 2:00 P.M.** in the Bid Conference Room of the Department of Purchasing and Contract Compliance, Fulton County Public Safety Building, Suite 1168, 130 Peachtree Street, S.W., Atlanta, Georgia 30303. Attendance at the Pre-Proposal Conference is voluntary for responding to this RFP, however Proposers are encouraged to attend. The purpose of the Pre-Proposal Conference is to provide information regarding the project and to address any questions and concerns regarding the services sought by the County through this RFP.

1.7 PROPOSAL DUE DATE

All proposals are due in the Department of Purchasing and Contract Compliance of Fulton County located in the Public Safety Building, Suite 1168, 130 Peachtree St, S.W., Atlanta Georgia 30303 on or before **May 16, 2014 at 11:00 A.M.**, legal prevailing time. All submitted proposals shall be time and date stamped according to the clock at the front desk of the Fulton County Department of Purchasing and Contract Compliance. Any proposals received after this appointed schedule will be considered late and will be returned unopened to the Proposer. The proposal due date can be changed only by addendum.

1.8 DELIVERY REQUIREMENTS

It shall be the sole responsibility of the Proposer to have his/her proposal delivered to the Fulton County Department of Purchasing and Contract Compliance for receipt on or before the above stipulated due date and time. If a

proposal is sent by U.S. Mail, the proposer shall be responsible for its timely delivery to the Department of Purchasing and Contract Compliance.

1.9 CONTACT PERSON AND INQUIRIES

Any questions or suggestions regarding this RFP shall be submitted in writing to the Purchasing Department contact person, **James A. Jones, Assistant Purchasing Agent at james.jones@fultoncountyga.gov**. Any response made by the County shall be provided in writing to all Proposers by addendum. No verbal responses shall be authoritative.

SECTION 2 INSTRUCTIONS TO PROPOSERS

2.1 PROCUREMENT PROCESS

The procurement will be on a formally advertised basis. All technical requirements, unless otherwise specified, must be met, or be capable of being met by the Proposer or their proposal will be disqualified as being non-responsive.

2.2 CONTRACT DEFINITIONS

In addition to any other terms that may be defined in this solicitation, the following terms have the following meaning:

Addendum – Revision to the RFP documents issued by the County prior to the receipt of proposals.

Agreement – refers to the executed contract between the County and Contracting Entity.

BOC - Board of Commissioners

Burden – The cost of mandatory and customary contributions and benefits applied to Direct Salary Expense, such as employment taxes and other statutory employment benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

County – Fulton County Government and its authorized representatives.

Contact Person – Purchasing staff designated by the Fulton County Department of Purchasing and Contract Compliance to submit any questions and suggestions to.

Direct Personal Expense (DPE) – The sum of Direct Salary Expense and burden

Direct Salary Expense (DSE) – The direct salary of the assigned staff position without the portion of the cost of mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employment benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

LEED – Leadership in Energy and Environmental Design

NTP – Notice to Proceed

Offeror – the entity of individual submitting a proposal in response to this RFP.

Owner – Fulton County Government

Proposal – the document submitted by the offeror in response to this RFP.

Proposer – the entity or individual submitting a proposal in response to his RFP.

Request for Proposal (RFP) – all documents, whether attached or incorporated by reference, utilized for soliciting sealed proposals.

Responsible Offeror – A person or entity that has the capability in all respects to perform fully and reliably the contract requirements.

Responsive Offeror – A person or entity that has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation for bids or request for proposals.

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

Subcontractor/sub-consultant – An individual, firm, corporation or any combination thereof, having a direct contract with Consultant/Contractor for the performance of a part of the work.

U.S.G.B.C. – Unites States green Building Council

2.3 NO CONTACT DURING PROCUREMENT PROCESS

It is the policy of Fulton County that the evaluation and award process for County contracts shall be free from both actual and perceived impropriety, and that contacts between potential vendors and County officials, elected officials and staff regarding pending awards of County contracts shall be prohibited.

- A. No person, firm, or business entity, however situated or composed, obtaining a copy of or responding to this solicitation, shall initiate or continue any verbal or written communication regarding this solicitation with any

County officer, elected official, employee, or designated County representative, between the date of the issuance of this solicitation and the date of the County Manager's recommendation to the Board of Commissioners for award of the subject contract, except as may otherwise be specifically authorized and permitted by the terms and conditions of this solicitation.

- B. All verbal and written communications initiated by such person, firm, or entity regarding this solicitation, if same are authorized and permitted by the terms and conditions of this solicitation, shall be directed to the Purchasing Agent.
- C. Any violation of this prohibition of the initiation or continuation of verbal or written communications with County officers, elected officials, employees, or designated County representatives shall result in a written finding by the Purchasing Agent that the submitted bid or proposal of the person, firm, or entity in violation is "non-responsive", and same shall not be considered for award.

2.4 CLARIFICATION & ADDENDA

Proposers may submit requests for clarifications or interpretations regarding this RFP and the Contract. Proposers must prepare such requests in writing for the County's consideration as set forth in this section of this RFP. While the County has not placed an initial limitation on the number of requests which can be submitted, Proposers are cautioned that if Proposers do not request meaningful clarifications or interpretations in an organized manner (e.g., limited frequency of requests), the County will set restrictions on the frequency and number of requests permitted. The County will not respond to requests, oral or written, received after **May 6, 2014 at 1:00 PM**, local prevailing time. Proposers are advised that this section places no obligation on the part of the County to respond to any or all requests for clarification or interpretation, and that the County's failure to respond to any such request will not relieve the Proposer of any obligations or conditions required by this RFP.

Requests for clarification or interpretation regarding this RFP shall only be submitted in writing (letter or email) to:

Fulton County Department of Purchasing & Contract Compliance
Attn: James A. Jones, Assistant Purchasing Agent
Public Safety Building
130 Peachtree Street S.W. Suite 1168
Atlanta GA 30303
E-mail: james.jones@fultoncountyga.gov

F: (404) 224-5287
**RE: 14RFP073113K-NH Facilities & Transportation Services Standby
Professional Services for Facilities Related Planning, Design, Engineering
and Assessments – Architecture & Engineering Services**

Telephone inquiries will not be accepted.

All responses to written requests for clarification, interpretation, or additional information will be distributed as addenda to this RFP and posted on the Fulton County website www.fultoncountyga.gov.

No oral interpretation, instruction, or information concerning this RFP given by any employee or agent of the County shall be binding on the County. Proposers who submit a Proposal in reliance on any such oral information risk having their response to this RFP deemed non-responsive by the County. Only written responses issued by addendum to this RFP should be considered by the Proposers.

During the period provided for the preparation of Proposals, the County may issue addenda to this RFP. These addenda will be numbered consecutively and will be posted on the Fulton County website, www.fultoncountyga.gov. These addenda will be issued by, or on behalf of, the County and will constitute a part of this RFP. Each Proposer is required to acknowledge receipt of each addendum by submitting an executed acknowledgment form. This acknowledgment shall include all addenda distributed prior to the Proposal Submission Date. All responses to this RFP shall be prepared with full consideration of the addenda issued prior to the Proposal Submission Date.

2.5 TERM OF CONTRACT

The initial term of the contract shall be for a one (1) year term, with two (2), one (1) year renewal options.

2.6 REQUIRED SUBMITTALS

See **Exhibits** for the RFP Submittal Checklist. This checklist will assist you to ensure that all submittals are included in your proposal. Failure to submit all submittals may deem your proposal non-responsive.

2.7 PROPOSAL EVALUATION

All proposals will be evaluated using the criteria specified in Section 4 of this RFP. Selection will include an analysis of proposals by a Vendor Selection Committee composed of County personnel who will review the proposal submittals in accordance with the submittal requirements and the evaluation criteria set forth in Section 4 of this RFP. The committee may request oral interviews and/or site visits. Awards will not necessarily be based on cost alone. Other factors, as detailed in the RFP, will be considered in determining what proposal will be deemed to best meet the needs of Fulton County.

2.8 DISQUALIFICATION OF PROPOSERS

The submission of more than one (1) proposal to the County as the primary Proposer or member of a joint venture for the same work by an individual firm, partnership or corporation under the same or different names may be grounds for disqualification of a Proposer and the rejection of the proposal.

2.9 RESERVED RIGHTS

The County reserves the right to accept or reject any and/or all proposals, to waive irregularities and technicalities, and to request resubmission. Any sole response that is received may or may not be rejected by the County depending on available competition and timely needs of the County. There is no obligation on the part of the County to award the contract to the lowest proposer and the County reserves the right to award the contract to the responsible proposers submitting responsive proposals with resulting agreements most advantageous and in the best interest of the County. The County shall be the sole judge of the proposals and the resulting agreements that are in its best interest and its decision shall be final. Also, the County reserves the right to make such investigation as it deems necessary to determine the ability of any proposer to perform the work or service requested. Information the County deems necessary to make this determination shall be provided by the proposer. Such information may include, but shall not be limited to, current financial statements by an independent CPA; verification of availability of personnel; and past performance records.

2.10 APPLICABLE LAWS

All applicable laws and regulations of the State of Georgia and ordinances and regulations of Fulton County shall apply. Protestors shall seek resolution of their complaints in the manner provided in the Fulton County Code of Laws §2-324 which is incorporated by reference herein.

2.11 INSURANCE AND RISK MANAGEMENT PROVISIONS

Insurance and Risk Management provisions and Indemnification and Hold Harmless provisions are outlined in Section 7 of this RFP.

2.12 ACCURACY OF RFP AND RELATED DOCUMENTS

The County assumes no responsibility that the specified technical and background information presented in this RFP, or otherwise distributed or made available during this procurement process, is complete or accurate. Without limiting the generality of the foregoing, the County will not be bound by or be responsible for any explanation or interpretation of the Proposal documents other than those given in writing as an addendum to this RFP.

Should a recipient of this RFP find discrepancies in or omissions from this RFP and related documents, the recipient of this RFP shall immediately notify the Purchasing Contact Person identified in Section 1.11 in writing at the following address: Fulton County Department of Purchasing and Contract Compliance, Public Safety Bldg, 130 Peachtree Street S.W., Suite 1168 Atlanta, GA 30303. A written addendum, if necessary, then will be made available to each recipient of this RFP.

2.13 RESPONSIBILITY OF PROPOSER

Each Proposer is encouraged to conduct all necessary investigations and review all available and relevant data and information, which are necessary in its judgment in order to assume this responsibility prior to the submittal of its Proposal. Proposers are reminded of Fulton County's **"No Contact During Procurement"** policy and shall only contact the person designated by the RFP.

2.14 CONFIDENTIAL INFORMATION

If any Proposal contains technical, financial, or other confidential information that the Proposer believes is exempt from disclosure, the Proposer must clearly label the specific portions sought to be kept confidential and specify on what the exemption is based. The County, at its sole discretion and subject to applicable law, will determine whether such exemption applies. The County has sole discretion to make such determination regarding the disclosure of information, and by responding to this RFP, Proposers waive any challenge to the County's decisions in this regard. Marking all or substantially all of a Proposal as confidential may result in the Proposer being deemed non-responsive to this RFP.

Notwithstanding the foregoing, Proposers recognize and agree that the County, its staff, and its Consultants will not be responsible or liable in any way for any losses that the Proposer may suffer from the disclosure of information or materials to third parties.

2.15 COUNTY RIGHTS AND OPTIONS

This RFP constitutes an invitation to submit Proposals to the County. Without limitation or penalty, the County reserves and holds at its sole discretion, the following rights and options:

- This RFP does not obligate the County to select, procure or contract for any services whatsoever.
- Fulton County reserves the right to award a contract based on this RFP and the proposal(s) received (in whole or in part) to one or several vendors.
- The County reserves the right to change or alter the schedule for any events associated with this procurement and, if required, notify the Proposers. A Proposer, by submitting a Proposal, agrees to be bound by any modifications made by the County
- All costs incurred by a Proposer in connection with responding to this RFP, the evaluation and selection process undertaken in connection with this procurement, and any negotiations with the County will be borne by the Proposer.
- The County reserves the right to reject all Proposals and components thereof to eliminate all Proposers responding to this RFP from further consideration for this procurement, and to notify such Proposers of the County's determination.
- The County may cancel this RFP without the substitution of another RFP and terminate this procurement at any time without any liability whatsoever.
- The County reserves the right to waive any technicalities or irregularities in the Proposals.
- The County reserves the right to eliminate any Proposer who submits incomplete or inadequate responses or is not responsive to the requirements of this RFP.

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- The County may request Proposers to send representatives to the County for interviews and presentations.
 - To the extent deemed appropriate by the County, the County may select and enter into discussion and negotiations with the Proposer(s) submitting Proposal(s), which are found to be reasonably susceptible for award.
 - The County reserves the right to discontinue negotiations with any selected Proposer.
 - The County reserves the right, without prior notice, to supplement, amend, or otherwise modify this RFP.
 - All Proposals (other than portions thereof subject to patent or copyright protection) become the property of the County and will not be returned, and the County reserves the right to utilize all such information contained in the Proposals without further cost to the County
 - The County may add to or delete from the Project Scope of Work set forth in this RFP.
 - Any and all Proposals not received by the Proposal Submission Date shall be rejected and returned unopened.
 - Neither the County, its staff, its representatives, nor any of its consultants or attorneys will be liable for any claims or damages resulting from the solicitation, collection, review, or evaluation of responses to this RFP.
 - The County, including its representatives and consultants, reserves the right to visit and examine any of the facilities referenced in any Proposal and to observe and investigate the operations of such facilities.

By responding to this RFP, Proposers acknowledge and consent to the rights and conditions set forth in this RFP.

2.16 COST OF PROPOSAL PREPARATION AND SELECTION PROCESS

Each Proposal, including preparation of all information required to be included in a Proposal pursuant to this RFP, shall be prepared at the sole cost and expense (including, but not limited to, engineering and legal costs) of the Proposer. In addition, the Proposer shall be solely responsible for all costs (including engineering

and legal costs) incurred by such Proposer in connection with this selection process, including any costs incurred by the Proposer in any subsequent negotiations entered into in connection with developing the Proposal. There shall be no claims whatsoever against the County, its staff, or its consultants for reimbursement for the costs or expenses (including, but not limited to, engineering and legal costs) incurred during the preparation of the Proposal or other information required by this RFP or procurement process or in connection with the selection process or any negotiations.

2.17 TERMINATION OF NEGOTIATIONS

The County at its sole discretion may, at any time, to the extent permitted by Applicable Law, exclude a Proposer from further participation in any negotiation process if the County determines that such Proposer is failing to progress in the negotiations or if the terms of its Proposal are less advantageous than those of other Proposers and such Proposer is deemed to be no longer susceptible of selection. The County will give written notice of its decision to the Proposer, which shall be sent in writing, signed by the County.

2.18 WAGE CLAUSE

Pursuant to 102-391, Each Contractor shall agree that in the performance of the Contract he 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.

2.19 ADDITIONAL OR SUPPLEMENTAL INFORMATION

After receipt of the submittals, the County will evaluate the responses, including the references, financial statements, experience and other data relating to the Respondent's qualifications. If requested by the Fulton County Department of Purchasing and Contract Compliance, Respondent's maybe required to submit additional or supplemental information to determine whether the Respondent meets all of the qualification requirements.

2.20 REPORTING RESPONSIBILITIES

The successful Proposer will report directly to the designated representative for the Facilities and Transportation Services Department.

2.21 GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT

This Request for Proposal is subject to the Georgia Security & Immigration

Compliance Act. Pursuant to the Georgia Security & Immigration Compliance Act of 2006, as amended on May 11, 2009, bidders and proposers are notified that all bids/proposals for services that are to be physically performed within the State of Georgia must be accompanied by proof of their registration with and continuing and future participation in the E-Verify program established by the United States Department of Homeland Security. A completed affidavit must be submitted on the top of the bid/proposal at the time of submission, prior to the time for opening bids/proposals. Under state law, the County cannot consider any bid/proposal which does not include a completed affidavit. It is not the intent of this notice to provide detailed information or legal advice concerning the Georgia Security & Immigration Compliance Act. All bidders/proposers intending to do business with the County are responsible for independently apprising themselves and complying with the requirements of that law and its effect on County procurements and their participation in those procurements. For additional information on the E-Verify program or to enroll in the program, go to: <https://e-verify.uscis.gov/enroll>.

See Section 5, Proposal Forms for declarations and affidavits.

2.22 AUTHORIZATION TO TRANSACT BUSINESS

If the Proposer is a Georgia corporation, the corporation, prior to contract execution, shall submit documentary evidence from the Secretary of State that the Corporation is in good standing and that the corporation is authorized to transact business in the State of Georgia.

If the Proposer is a foreign (non-Georgia) corporation, the corporation, prior to contract execution shall submit a Certificate of Authority and documentary evidence from the Georgia Secretary of State of good standing which reflects that the corporation is authorized to do business in the State of Georgia.

2.23 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.

2.24 FIRST SOURCE JOBS POLICY

It is the policy of Fulton County Government to provide employment opportunities to the citizens of Fulton County. This policy will apply to all contracts procured through the Department of Purchasing & Contract Compliance valued in excess of \$200,000. The Prime Contract is expected to utilize the First Source Jobs Program to fill 50% of the entry level jobs which arise as a result of any project funded in whole or in part with County funds with residents of Fulton County. Forms are provided in Section 6 of this RFP.

2.25 NON-COLLUSION

By submitting a signed proposal, Offeror certifies that there has been no collusion with any other Offeror. Reasonable grounds for believing Offeror has an interest in more than one proposal will result in rejection of all proposals in which the Offeror has an interest. Any party to collusion may not be considered in future proposals for the same or similar work. See Section 5, Proposal Forms for declarations and affidavits.

2.26 EXCEPTIONS TO THE COUNTY'S CONTRACT

If Offeror takes exception to any term or condition set forth in the Sample Contract, see Section 8 of this RFP, and any of its exhibits, appendices or attachments, said exceptions must be clearly identified in the response to this RFP. Exceptions or modifications to any of the terms and conditions must be submitted as a separate document accompanying the Offeror's proposal clearly marked as "Exceptions."

The County shall be the sole determiner of the acceptability of any exception. See Section 5, Proposal Forms for declarations and affidavits.

2.27 GENERAL REQUIREMENTS

1. Proposals may be withdrawn upon receipt of a written request prior to the stated due date and time. If a firm seeks to withdraw a proposal 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 proposal.

Proposals 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 Offerors in the request for proposals of the number of days that Offerors will be required to honor their proposals. If an Offeror is not selected within 60 days of opening the proposals, any Offeror that is determined by the governmental entity to be unlikely of being selected for contract award will be released from the proposal.

2. Fulton County shall be the sole judge of the quality and the applicability of all proposals. Design, features, overall quality, local facilities, terms and other pertinent considerations will be taken into account in determining acceptability.
3. The successful Offeror must assume full responsibility for delivery of all goods and services proposed.
4. The successful Offeror 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.

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5. The successful Offeror 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 Offeror is solely responsible for arranging for the service to be performed.
 6. The successful Offeror shall be responsible for the proper training and certification of personnel used in the performance of the services proposed.
 7. The successful Offeror shall not assign, transfer, convey, sublet, or otherwise dispose of any contract resulting from the RFP 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 Offeror, Fulton County may procure the articles or services from another source and hold the successful Vendor responsible for any resultant excess cost.
 9. All proposals and 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 proposals and 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).

SECTION 3 PROPOSAL REQUIREMENTS

3.1 SUBMISSION REQUIREMENTS

3.1.1 Proposal Submission Date and Submittal Format

All Proposals, including all attachments, must be received by the County in a sealed package no later than **May 16, 2014 at 11:00 A.M.** and must be addressed to:

REQUEST FOR PROPOSALS RFP # 14RFP073113K-JAJ
Facilities & Transportation Services Standby Professional Services for
Facilities Related Planning, Design, Engineering and Assessments –
Architecture & Engineering Services
Fulton County Department of Purchasing & Contract Compliance
Public Safety Building
130 Peachtree Street S.W. Suite 1168
Atlanta GA 30303

The Proposal shall consist of a Technical Proposal, a Cost Proposal and all documents listed on the Required Submittal Checklist (Exhibit 1). The Technical Proposal shall include proposer information, technical information, business-related information, and any Technical Proposal forms requested. The Cost Proposal shall include the Cost Proposal Forms and any information describing the basis for pricing and must be separately, sealed, marked and packaged.

The required content of the Technical Proposal and Cost Proposal is further specified in this section of the RFP. The Proposal must be signed and acknowledged by the Proposer, including certain information to be provided under oath as required under applicable law, in accordance with the instructions herein and the various proposal forms.

THE TECHNICAL PROPOSAL, THE COST PROPOSAL AND CONTRACT COMPLIANCE EXHIBITS SHALL BE SUBMITTED IN SEPARATE, SEALED ENVELOPES OR PACKAGES. THE INCLUSION OF ANY COST INFORMATION IN THE TECHNICAL PROPOSAL MAY RESULT IN SUCH PROPOSAL BEING REJECTED BY THE COUNTY.

Each envelope or package shall be clearly marked as follows:

REQUEST FOR PROPOSALS RFP 14RFP073113K-JAJ
Facilities & Transportation Services Standby Professional Services for
Facilities Related Planning, Design, Engineering and Assessments –
Architecture & Engineering Services
[Technical or Cost Proposal]
Proposer's Name and Address

3.1.2 Number of Copies

Proposers shall submit the following:

Technical Proposal, one (1) original and six (6) copies on CD media in PDF format.

Contract Compliance Exhibits, one (1) original with the Technical Proposal marked "Original" and one (1) copy in a separate sealed envelope.

Financial Information, one (1) original with the Technical Proposal marked "Original" and one (1) copy in a separate sealed envelope.

Cost Proposal, one (1) original and one (1) copy in a separate sealed envelope.

All Proposals must be complete with all requested information.

3.2 OVERVIEW OF PROPOSAL REQUIREMENTS

Proposers shall submit Proposals in accordance with the content and format requirements set forth in this RFP. Proposals should be clearly organized and structured in a manner that allows materials included in the document to be located easily.

Each of the instructions set forth in this section must be followed for a Proposal to be deemed responsive to this RFP. In all cases, the County reserves the right to determine, at its sole discretion, whether any aspect of the Proposal meets the requirements set forth in this section. The County reserves the right to reject any Proposal, which in its judgment, does not comply with these Proposal submission requirements.

3.3 SCOPE OF WORK

Fulton County intends to engage Architectural & Engineering firms to provide technical, professional and other services for various Fulton County projects as broadly described in this RFP. The intent of this project is for one or more firms to provide some, all or any combination of the various and diverse technical, professional, architectural and engineering planning projects, and related projects for the County on an as needed basis. Whenever services are requested by the County the Vendor will submit a written proposal for the specific project based on the scope of services requested by the County. The County may accept or reject the proposal, or decline such services when it is in the best interest of the County to do so. If the Vendor's proposal is accepted, the County may issue a Work Authorization and Notice to Proceed that specifies the "not-to-exceed" dollar amount of the Work Authorization with the begin and completion date. After having received the Notice to Proceed, including a written approval of the scope of services and estimate of fees for a specific project, the Vendor shall provide the services required for the specific project in accordance with the contract and scope of service.

The County may rescind a Notice to Proceed or Work Authorization at any time at the County's convenience if it is in the best interest of Fulton County. When a Notice to Proceed is rescinded, the County will pay the Vendor for any authorized work that has been satisfactorily performed up to, and through the date of cancellation. In the event of cancellation, the Vendor will not be entitled to any additional compensation for unauthorized work or anticipated lost profits due to such cancellation. All work products for which compensation is received by the Vendor from the County shall be submitted to the County. Further, all authorized work shall be submitted to the County before final payment is approved by the County.

It is understood and agreed by the Vendor that services performed under the Scope of Services as stated in this RFP shall include, but not be limited to those services described below and to the extent desired by Fulton County.

Basic Services shall include the provision of various professional services as hereinafter stated that include civil, mechanical, electrical, architectural, geotechnical and structural engineering, contract administration, prequalification, bidding, and construction inspection services incidental thereto. Services also include preparation of engineering studies, modeling process and hydraulics, and assistance with regulatory requirements, citizen participation involvement, pre-design and pre-

construction support and partnering.

The County may request all, some, any combination of or none of the services identified in this Scope of Services. When the County desires any services contemplated under this RFP, the County will contact the Vendor and request a written proposal, estimate of costs and preliminary schedule for the work to be performed on each specific project based on the Scope of Services desired by the County.

ENGINEERING STUDIES

Certain projects may be assigned to the Vendor that requires the only deliverable to be technical memorandums and/or a final report. Such projects will usually be for planning purposes or consist of an environmental study. These projects will not require additional design, bid and construction services as outlined elsewhere in this document.

Engineering studies will require the use of engineering and scientific specialists proficient in the subject area of the project. These specialists will be considered local for billing purposes with no reimbursement for travel and lodging expenses. The Vendor will be required to maintain a project schedule and budget for each engineering study assigned. A minimum of two (2) weeks shall be provided in the project schedule for County review of each deliverable unless otherwise directed by the County.

Services may include, but not be limited to the following:

- (a) A kick-off meeting;
- (b) Progress meetings as determined by the county;
- (c) Information gathering;
- (d) Preparation of draft technical memorandums on specific subject areas of the project;
- (e) Review meetings and coordination of review comments;
- (f) Preparation of the final report; and
- (g) Presentation of the results at private and public forums when requested and directed by the County.

CONSULTATIVE, ADVISORY, INVESTIGATIVE AND PRE-DESIGN SERVICES

The Vendor may be requested to provide various services including, but not limited to, the following:

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- (a) Expert testimony;
 - (b) Utility rate structure and tariff studies;
 - (d) Inspections, explorations, surveys, testing or other services concerning the collection, analysis, evaluation and interpretation of data leading to specialized conclusions and recommendations;
 - (e) Feasibility studies on proposed projects, including studies of clients' needs, analysis of conditions or methods of operation, development of alternative concepts, economic analyses, environmental studies and site location studies;
 - (f) Development of preliminary design reports, including outline specifications, preliminary cost estimates; and
 - (g) Schematic design and design development for building projects.

PRE-DESIGN AND PRE-CONSTRUCTION ACTIVITIES

The Vendor may be requested by the County form various Land Acquisition functions and to provide scheduling and coordination on all Pre-Design and Pre-Construction activities including, but not limited to the following:

- (a) Land Acquisition:
 - 1. Title research and survey;
 - 2. Appraisals, legal descriptions and plats.
- (b) Scheduling and Coordination
 - 1. Site disturbance and building permits;
 - 2. Geotechnical, archeological and environmental permits and surveys;
 - 3. Storm water and NPDES permits;
 - 4. EPNEPD; Corps of Engineers, Georgia DOT, railroad or other permitting agencies; and
 - 5. Easement documentation, negotiation and support of "on time" acquisition.

PARTNERING

The Vendor will be required to support partnering requirements of this RFP and any other related contracts. The Vendor will be responsible for, but not limited to the following:

- (a) Partnering scheduling and reports;
- (b) Providing e-mail meeting notices and meeting minutes;
- (c) Tracking Partnering Goal Measurements;

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- (d) Distributing Project Report Cards and compiling results; and
 - (e) Coordinating meetings and other sessions.

PROJECT MANAGEMENT SERVICES

The Vendor may be required to provide Project Management Services including, but not limited to the following:

- (a) Meeting the County requirements related to the project intent, quality, schedule and budget;
- (b) Selecting consultants;
- (c) Performing conceptual studies including economic feasibility;
- (d) Planning, scheduling, monitoring, controlling, estimating, budgeting and cash control for specific projects;
- (e) Engineering and design;
- (f) Procurement;
- (g) Risk management;
- (h) Construction management;
- (i) Commissioning testing and start-up of new facilities
- (j) Quality assurance
- (k) Project closeout; and
- (l) Maintaining a document tracking and control system through the duration of the project.
- (m) LEED certification.

DETAILED DESIGN SERVICES

The Vendor may be requested to perform Detailed Design Services (utilizing the Fulton County Standard Specifications and Details where applicable) based on previously established project requirements. These services may include, but not be limited to the following:

- (a) Development and preparation of detailed calculations, engineering designs, drawings, cost estimates, technical specifications, and special conditions for use with the county standard contract documents;
- (b) Resolving detailed problems;
- (c) Developing specifications and selecting equipment;
- (d) Coordinating engineers and/or other design service groups;
- (e) Preparing, or collaborating with others responsible for preparing, estimates of the cost of the work;
- (f) Providing assistance and advice to the county in bid evaluation and contract award immediately preceding construction;
- (g) Developing additional standards for use in the project and for

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- separate submittal to the County for incorporation into the County's standard specifications and details in the absence of such; and
- (h) Maintaining a document tracking and control system.

CONTRACT ADMINISTRATION AND GENERAL REVIEW DURING CONSTRUCTION

The Vendor may be requested to provide these services to assist the County in construction administration and engineering review following award of the contract and during construction of a specific project. These services may include, but not be limited to the following:

- (a) Providing advice on the interpretation of contract documents to the County;
- (b) Issuing supplementary details and instructions as required;
- (c) Reviewing shop drawings for general compliance with design requirements and contract documents;
- (d) Reviewing contractor's progress claims, including the validity of additions or deletions;
- (e) Reviewing progress certificates and change orders for the client's acceptance;
- (f) Making periodic site visits to assess progress generally and conformity of the of the work contract documents;
- (g) Reporting to the County on the progress of construction;
- (h) Arranging for, and attending, regular site meetings;
- (i) Carrying out final review;
- (j) Participating in the testing and start-up at the conclusion of the construction contract;
- (k) Issuing a substantial performance and/or completion certificate to the County;
- (l) Ensuring that the contractor's as-built record drawings are accurate and up to date on a periodic basis and upon completion of the project; and
- (m) Maintaining the document tracking and control system.

CONSTRUCTION MANAGEMENT SERVICES

The Vendor may be requested to provide Construction Management Services that may include, but not be limited to the following:

- (a) Contract strategy, administration and expediting;
- (b) Construction logistics, planning, scheduling and personnel forecasts;
- (c) Field office management;
- (d) Construction facilities and equipment provisions;

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- (e) Progress monitoring, trending and reporting;
 - (f) Cost performance monitoring;
 - (g) Trending and claims processing;
 - (h) Safety program compliance; and
 - (l) maintaining the document control and tracking system as required.

ADDITIONAL SERVICES

The County may request additional services from the A/E other than those specifically detailed in this RFP as "basic/services" and these requests will vary according to the County needs any given time. These service requests may include, but are not limited to the following:

- (a) Extended commissioning and start-up assistance for equipment or facilities;
- (b) Preparing plant specific operating and maintenance manuals;
- (c) Determining deficiencies during the warranty period;
- (d) Preparing the final acceptance document at the end of the warranty period;
- (e) Assisting with facility management and/or operations after commissioning and start-up;
- (f) Providing assistance in as-built drawing verification.
- (g) Facility requirements and utilization studies.
- (h) Feasibility studies for new, renovation and alteration projects.
- (i) Preparation of program documents.
- (j) Preparation of schematic, preliminary, design Development, contract documents, and specifications.
- (k) Studies and audits for compliance with federal, state and local regulations.
- (l) Services related to minor and/or new construction, renovation and alteration projects to include planning, handicapped accessibility (ADA), project evaluation, electrical, mechanical, structural and civil engineering.
- (m) Additional services which may be required or requested.
- (n) Master Planning, building systems surveys.
- (o) Facility programming.
- (p) Construction administration.
- (q) Development of design documents for the Fast Track Construction Project System (Job Order Contract).
- (r) Cost estimates.

3.4 PROJECT DELIVERABLES

Deliverables may be requested at 30%, 60%, 90%, 95% and 100% milestones of deliverables associated with each task order that is issued. All applicable Federal, State laws; and County ordinances, codes, rules and regulations of all authorities having jurisdiction over the construction of the project shall be followed.

The Prosper shall utilize CADD; object based drawing formats for the preparation of drawings. This format will be used for architectural and engineering disciplines.

Drawings for each task order/scope of work, shall be printed on 30 inch x 42 inch paper drawing sheets for full size documents, to an appropriate scale. Additionally, drawings must be transmitted electronically in PDF file format when requested by the County. Specifications and reports required in each task order/scope of work shall be 8 1/2" inches X 11 inches except as indicated otherwise and must be transmitted in PDF file format when requested by the County.

3.5 PROJECT SCHEDULE

Project schedules will be developed and implemented on a per task basis.

3.6 TECHNICAL PROPOSAL FORMAT AND CONTENT

The Technical Proposal shall include the appropriate and requested information in sufficient detail to demonstrate the Proposer's knowledge, skills and abilities to provide requested services and will be reviewed and evaluated based on each Proposer's responses to the criteria described below.

The Technical Proposal shall be arranged and include content as described below:

Section 1 - Executive Summary

Executive Summary

Proposer shall submit their approach to the work as it relates to a task order contract, understanding of the contracts goals and objectives and a demonstrated understanding of the contracts potential problems and concerns in

a brief executive summary. *(Two page maximum)*

Project Plan

Proposer shall submit a Project Plan that shall contain the following information: *(Four page maximum)*

1. Name and corporate headquarter address, telephone number and e-mail address of one (1) individual to whom all future correspondence and/or communications will be directed from the prime Proposer's firm.
2. **Project Plan:** Proposer shall describe their approach in tracking the each task order's success in completing the work identified in Section 3.3 *Scope of Work* and must identify all major tasks; planned reviews of work associated with each major task, at a minimum, and any other information that will assist in the planning and tracking this project successfully. A description of methodologies, including best practices and benchmarks to be used shall be included.
 - A. **Project Approach Work Plan:** Proposer shall provide a project approach work plan that summarizes their quality control, method for coordination of disciplines, production methods, cost control, schedule control measures, goals and objectives. *(Two page maximum)*
 - B. **Project Schedule Control:** Proposer shall demonstrate their understanding of the task order contract, and any potential problems and concerns. Schedules will be required for each task order. The schedule shall show the schedule control milestones and events through each phase of the design and engineering work, including County decision points and reviews and approvals by the County and permitting authorities having jurisdiction. *(One page maximum)*
 - C. **Project Cost Control:** Proposer shall describe the construction cost estimating control used in designing and engineering each within the established budget. The Plan must show special cost control milestones and events through each phase of the design and engineering work; include County decision points, reviews and approvals by the County and permitting authorities having jurisdiction; quantity updates and alternatives. *(One page maximum)*

Section 3 – Project Team Qualifications/ Qualifications of Key Personnel

STAFFING

1. Proposer shall provide a Project Manager and Principle-in-Charge who have a minimum of five (5) years' experience providing Facilities Related Planning, Design, Engineering, Assessments, and Architectural services.
2. Proposer shall provide the resumes and license information for each key personnel proposed for this project, specifically those of the Project Manager and the Principle-in-Charge, and all other personnel to be assigned to this project. The resumes shall reflect their responsibilities, previous and current; experience; educational and professional history; and length of time employed by the firm as a full-time employee. Resumes shall be limited to no more than three (3) pages per person and be organized according to the following:
 - Name and title
 - Professional Background
 - Current and Past Relevant Experience
 - Relevant Training and Education
 - Courses completed during the past five (5) ears
 - Previous Work Experience related to Facilities Related Planning, Design, Engineering, Assessments and Architectural services.
 - Include two (2) references for each key personnel member on similar projects
 - Include the role and responsibilities that each key personnel member will perform on this project.
3. Proposer shall provide a Team Directory showing each team member and include the following for each team member listed: firm name; corporate home office location; address, phone number and e-mail addresses.
4. Proposer shall provide an organizational chart which clearly indicates each discipline, company name, principal-in-charge, and project manager(s) assigned with the overall project coordination. This shall include the following associated persons:
 - Architectural Design & Specifications
 - Interior Design & Specifications
 - Furnishings Space Planning & FF&E Specifications
 - Civil Engineering & Specifications

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- Structural Engineering & Specifications
 - Landscape Design & Specifications
 - Electrical Engineering & Specifications
 - Security/Fire Alarm/Communication Engineering & Specifications
 - Plumbing Engineering & Specifications
 - Fire Protection Engineering & Specifications
 - Mechanical Engineering & Specifications
 - Hardware Selection & Specifications
 - ADA Compliance Review of Drawings & Specifications
 - Certified Construction Cost Estimator
 - Commissioning Agent
 - USGBCLEED Accredited Professional

5. Proposer shall show the percentage of time key personnel will spend on this project during each phase of the project and provide information on the availability of all personnel proposed for this project assuming a NTP will be issued two (2) months from the date of proposal submittal. Response shall include a complete description of other commitments and anticipated completion dates for the personnel assigned to this project.

Section 4 - Availability of Key Personnel

Please provide the following information for the propose Project Manager and Principal-in-Charge:

- (1) Percentage of time key personnel will spend on this project
- (2) Current workload of key personnel

Section 5 - Local Preference

Local Preference is given to businesses that have a business location within the geographic boundaries of Fulton County. The term business location means that the business has a staffed, fixed, physical place of business located within Fulton County and has had the same for at least one (1) year prior to the date of the business' submission of its proposal or bid, as applicable and has had held a valid business license from Fulton County or a city located within Fulton County for the business at a fixed, physical, place of business, for at least one (1) year prior to the date of the business' submission of its proposal or bid as applicable.

In order to receive the Local Preference points of five (5) points the Proposer must meet one (1) of the following criteria, provide supporting documentation as required and certify under oath that it is eligible to receive the local preference

points by signing and submitting Form H, Local Preference Affidavit located in Section 5 of this RFP.

The Proposer must indicate which one (1) of the following criteria they will utilize in order to receive local preference:

1. Business having a business location within the geographic boundaries of Fulton County.

The following supporting documentation must be provided:

- Copy of occupational tax certificate (business license) form Fulton County or a city located within Fulton County, or;
- Copy of a lease or rental agreement, or;
- Proof of ownership interest in a location within the geographical boundaries of Fulton County.

1. Businesses where at least fifty-one percent (51%) of the owners of the business are residents of Fulton County but the business is located outside of Fulton County.

The following supporting documentation must be provided:

- Provide the residential address of the business owner(s).

2. Businesses where at least fifty-one percent (51%) of the employees of the business are residents of Fulton County but the business is located outside of Fulton County.

The following supporting documentation must be provided:

- Provide a list of all employees name and address.

Failure to provide the required supporting documentation with your proposal submittal shall result in your firm receiving a "0" (zero) for Local Preference. In the event the affidavit or other declaration under oath is determined to be false, such business shall be deemed "non-responsive" and shall not be considered for award of the applicable contract.

Section 6 – Service Disabled Veterans Preference

Service Disabled Veterans Business Enterprise Preference is given to businesses that are independent and continuing operations for profit, performing

commercially useful functions, and which are owned and controlled by one or more individuals who are disabled as a result of military service who have been honorably discharged, designated as such by the United States Department of Veterans Affairs, and is located within the geographic boundaries of Fulton County. The Service Disabled Veteran Business Enterprise (“SDVBE”) must be certified as such by the County’s Office of Contract Compliance.

In order to receive the SDVBE Preference points the Proposer must submit a copy of their certification letter from the Office of Contract Compliance and certify under oath that it is eligible to receive the SDVBE preference points by signing and submitting Form I, Service Disabled Veterans Preference Affidavit located in Section 5 of this RFP.

Section 7 – Cost

The hourly rates of each respondent will be totaled and divided by the number of classifications requested to determine the respondents’ average hourly rate. The respondent with the lowest average hourly rate will receive the full 10 points. For respondents with the second, third, fourth, etc., their average hourly rates will be divided into the lowest average hourly rate and multiplied by 10, the total points allowed for cost.

The County has established the following formula to evaluate cost proposals for Request for Proposals (RFP):

Lowest cost submitted

Each successive cost \times Points allocated for cost in RFP = Cost proposal score

The County will determine responsibility based on the following criteria for the proposer recommended by the Evaluation Committee:

Section 8 – Past Performance

1. Proposer must have, at a minimum, three (3) years relevant experience conducting analysis or process reviews for Standby Professional Services related to Planning, Design, Engineering, Architectural services for entities comparable to the size of Fulton County within the past three (3) years.

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- The name of the project, the owner, year performed and the project location.
 - Facility description, a photo of the interior and exterior of the facility, indicate size, functions housed, completed cost, and, year completed.
 - Services the proposing firm provided.
 - Indicate whether participation was as the prime or sub-consultant.
 - A reference, including a contact name, addresses and phone number. This reference should be the owner's staff member who was in charge of the project for the owner.
2. USGBC LEED: Submit project experience where LEED was initiated for design, engineering and construction. This information will be used to verify LEED experience if the County elects to pursue a Silver LEED rating for this project. If no LEED experience, indicate "None."
- Indicate name of LEED Accredited Professional
 - Indicate LEED project certified rating(s) achieved or submitted for.
 - Include a copy of LEED certification

Section 9 – Proposer Financial Information

It is the policy of the County to conduct a review of a firm's financial responsibility in order to determine the firm's capability to successfully perform the work.

If submitting as a Joint Venture, Partnership, Limited Liability Corporation or Limited Liability Partnership, the financials must be submitted for each entity that comprises the prime contractor.

The following documentation is required in order for the County to evaluate financial responsibility:

- (1) Provide your firm's most recent balance sheets.
- (2) Provide your firm's most recent Dun & Bradstreet, Value Line Reports or other credit ratings/report.
- (3) Identify any evidence of access to a line or letter of credit. The evidence must be provided by a financial institution.
- (4) Provide a sworn statement that your firm has not filed petition(s) for federal bankruptcy or state insolvency. The statement must be notarized.

Section 10 – Disclosure Form and Questionnaire

It is the policy of Fulton County to review the history of litigation of each Proposer that includes bankruptcy history, insolvency history, civil and criminal proceedings, judgments and termination for cause in order to determine whether a firm's business practices, legal practices and overall reputation in the industry is one that would be acceptable to perform work for Fulton County. The Disclosure Form and Questionnaire is provided in Section 5, Proposal Forms, Form D.

3.5 COST PROPOSAL FORMAT AND CONTENT

The Cost Proposal shall be provided in a **separate sealed envelope**. The Cost Proposal shall include current information and shall be arranged and include content as described below:

Section 1 - Introduction

The Proposer shall include an introduction which outlines the contents of the Cost Proposal.

Section 2 - Completed Cost Proposal Forms

The Proposer is required to complete **all** of the Cost Proposal Forms provided in the Exhibit. Costs will be calculated pursuant to Section 7 page 3-14.

**SECTION 4
EVALUATION CRITERIA**

4.1 PROPOSAL EVALUATION – SELECTION CRITERIA

The following criteria will be used to evaluate the proposals submitted in response to this RFP:

Evaluation Criteria	Weight
Project Plan/Approach to Work	20%
Qualifications of Key Personnel	20%
Relevant Project Experience/ Past Performance	20%
Availability of Key Personnel	15%
Local Preference	5%
Service Disabled Veterans Preference	2%
Cost Proposal	18%
TOTAL POINTS	100%

SECTION 5 PROPOSAL FORMS

5.1 INTRODUCTION

To be deemed responsive to this RFP, Proposers must provide the information requested and, where applicable, complete in detail all Proposal Forms. The appropriate individual(s) authorized to commit the Proposer to the Project must sign the Proposal Forms. As appropriate, Proposers shall reproduce each Proposal Form and complete the appropriate portions of the forms provided in this section.

Form A: Certification Regarding Debarment

Form B: Non-Collusion Affidavit of Bidder/Offeror

Form C: Certificate of Acceptance of Request for Proposal Requirements

Form D: Disclosure Form and Questionnaire

Form E: Georgia Security and Immigration Contractor Affidavit/Agreement

Form F: Georgia Security and Immigration Subcontractor Affidavit

Form G: Professional License

Form H: Local Preference Affidavit of Bidder/Offeror

Form I: Service Disabled Veteran Preference Affidavit of Bidder/Offeror

5.2 PROPOSAL FORMS DESCRIPTION

Certification Regarding Debarment

Proposer shall complete and submit **Form A**, which certifies that neither it nor its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from doing business with any government agency.

Non-Collusion Affidavit of Bidder/Offeror

Proposer shall complete and submit **Form B**, executed by an authorized officer of the corporation. Proposals developed by a joint venture shall be similarly executed by all joint venture participants.

Certificate of Acceptance of Request for Proposal Requirements

Proposer shall complete and submit **Form C**, which certifies that Proposer has read the solicitation including all addenda, exhibits, attachments and appendices.

Disclosure Form and Questionnaire

The offerors and their joint venture partners or team members and first-tier subcontractors, shall complete and submit **Form D**, which requests disclosure of business and litigation.

Georgia Security and Immigration Contractor Affidavit and Agreement

Proposer shall complete and submit **Form E**, in order to comply with the requirements of O.C.G.A. 13-10-91 and the Georgia Department of Labor Rule 300-10-01-.02.

Georgia Security and Immigration Subcontractor Affidavit

Proposer shall ensure that any and all subcontractor(s), that will be utilized for this project shall complete and submit **Form F**, Subcontractor Affidavit.

Professional License

Proposer and any subcontractor(s) performing work required by state law to be licensed shall complete and submit **Form G** and attach a copy of their license for the work they will perform on this project.

Local Preference Affidavit of Bidder/Offeror

Proposer shall complete and submit **Form H**, which certifies that the Proposer is eligible to receive local preference points.

Service Disabled Veteran Preference Affidavit of Bidder/Offeror

Proposer shall complete and submit **Form I**, which certifies that the Proposer is certified as Service Disabled Veteran Business Enterprise

("SVDBE") by the County's Office of Contract Compliance.

FORM A: CERTIFICATION REGARDING DEBARMENT

- (1) The Offeror certifies that neither it or its subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from doing business with any government agency. Any such exclusion may cause prohibition of your firm from participating in any procurement by the Fulton County Government.
- (2) If the Offeror is unable to certify to any of the statements in this certification, such Offeror or subcontractor shall attach an explanation to this bid or proposal.

INSTRUCTIONS FOR CERTIFICATION

By signing and submitting this certification, the Offeror is providing the certification set out below:

- (1) The certification in this clause is a material representation of fact upon which reliance will be placed. If it is later determined that the prospective vendor knowingly rendered a false certification, the Purchasing Agent may pursue all available remedies, including suspension and/or debarment, for withdrawal of award or termination of a contract.
- (2) The prospective Offeror shall provide immediate written notice to the Purchasing Agent if at anytime the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (3) Offeror shall be under a continuing duty to immediately inform the Purchasing Agent in writing of any changes, if as a result of such changes, the Offeror certification regarding debarment is affected.

DEBARMENT ORDINANCE

The following Section 2-322 of Fulton County Code of Laws establishes the procedure for the debarment of contractors.

(a) *Authority to suspend.*

After reasonable notice to the entity involved and reasonable opportunity for that entity to be heard, the Purchasing Agent, after consultation with user department, the County Manager and the County Attorney shall have the authority to suspend an entity for cause from consideration for award of county contracts. As used in this section, the term entity means any business entity, individual, firm, contractor, subcontractor or business corporation, partnership, limited liability corporation, firm, contractor, subcontractor or business structured; provided, further, that any such entity shall also be subject to suspension under this section if any of its constituents, members, subcontractors at any tier of such entity's and the entity, or any constituent or member, knew or should have known of the commission of the act. The suspension shall be for a period not to exceed three (3) years unless cause is based on a felony conviction for an offense related or associated with fraudulent contracting or misappropriation of funds wherein the

suspension shall not exceed seven (7) years.

(b) Causes for Suspension. The causes for suspension include:

- 1) Conviction for commission of a criminal offense as an incident to obtain or attempting to obtain a public or private contract or subcontract, or in performance of such contract or subcontract;
- 2) Conviction of state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a county contractor.
- 3) Conviction of state or federal anti-trust statutes arising out of the solicitation and submission of bids and proposals;
- 4) Violation of contract provisions, as set forth below, of a character which is regarded by the Purchasing Agent to be so serious as to justify suspension action:
 - a. Failure to perform in accordance with the specifications within a time limit provided in a county contract;
 - b. A recent record of failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension;
 - c. Material representation of the composition of the ownership or workforce or business entity certified to the county as a minority business enterprise; or
 - d. Falsification of any documents.
- i. For violation of the ethical standards set forth in Fulton County Code Chapter 9, Code of Ethics.
- ii. Knowing misrepresentation to the county, of the use which a majority owned contractor intends to make a minority business enterprise (a business entity at least 51 percent of which is owned and controlled by minority persons, as defined in Fulton County Code Chapter 6, Article B, Minority Business Enterprise Affirmative Action Program and certified as such by the County) as a subcontractor or a joint venture partner, in performing work under contract with the County.

Failure to fully and truthfully provide the information required, may result in the disqualification of your bid/proposal from consideration or termination of the Contract, once awarded. This document must be completed and included as a part of the bid/proposal package along with other required documents.

[SIGNATURES ON NEXT PAGE]

Under penalty of perjury, I declare that I have examined this certification and all attachments hereto, if applicable, to the best of my knowledge and belief, and all statements contained hereto are true, correct, and complete.

On this _____ day of _____, 2013

(Legal Name of Proponent) (Date)

(Signature of Authorized Representative) (Date)

(Title)

STATE OF GEORGIA

COUNTY OF FULTON

FORM B: NON-COLLUSION AFFIDAVIT OF BIDDER/OFFEROR

I, _____ certify that pursuant to Fulton County Code Section 2-320 (11), this bid or proposal is made without prior understanding, agreement or connection with any 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. I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences and civil damages awards. I agree to abide by all conditions of this bid or proposal and certify that I am authorized to sign this bid or proposal for the bidder.

Affiant further states that pursuant to O.C.G.A. Section 36-91-21 (d) and (e), _____ has not, by itself or with others, directly or indirectly, prevented or attempted to prevent competition in such bidding or proposals by any means whatsoever. Affiant further states that (s)he has not prevented or endeavored to prevent anyone from making a bid or offer on the project by any means whatever, nor has Affiant caused or induced another to withdraw a bid or offer for the work.

Affiant further states that the said offer of _____ is bona fide, and that no one has gone to any supplier and attempted to get such person or company to furnish the materials to the bidder only, or if furnished to any other bidder, that the material shall be at a higher price.

(COMPANY NAME)

(PRESIDENT/VICE PRESIDENT)

Sworn to and subscribed before me this _____ day of _____, 2013.

(SECRETARY/ASSISTANT SECRETARY)

(Affix corporate seal here, if a corporation)

Notary Public: _____

County: _____

Commission Expires: _____

NOTE:

IF THE OFFEROR IS A PARTNERSHIP, ALL OF THE PARTNERS AND ANY OFFICER, AGENT, OR OTHER PERSON WHO MAY HAVE REPRESENTED OR ACTED FOR THEM IN BIDDING FOR OR PROCURING THE CONTRACT SHALL ALSO MAKE THIS OATH.

IF THE OFFEROR IS A CORPORATION, ALL OFFICERS, AGENTS, OR OTHER PERSONS WHO MAY HAVE ACTED FOR OR REPRESENTED THE CORPORATION IN BIDDING FOR OR PROCURING THE CONTRACT SHALL MAKE THE OATH.

FORM C: CERTIFICATE OF ACCEPTANCE OF REQUEST
FOR PROPOSAL REQUIREMENTS

This is to certify that on this day, offeror acknowledges that he/she has read this solicitation document, pages # _____ to # _____ inclusive, including any addenda # _____ to # _____ exhibit(s) # _____ to # _____, attachment(s) # _____ to # _____, and/or appendices # _____ to # _____, 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, and that the undersigned is authorized by the offeror to submit the proposal herein and to legally obligate the offeror thereto.

This is also to certify that the offeror has reviewed the form Fulton County contract included in the solicitation documents and agrees to be bound by its terms, or that the offeror certifies that it is submitting any proposed modification to the contract terms with its proposal. The offeror further certifies that the failure to submit proposed modifications with the proposal waives the offeror's right to submit proposed modifications later. The offeror also acknowledges that the indemnification and insurance provisions of Fulton County's contract included in the solicitation documents are non-negotiable and that proposed modifications to said terms may be reason to declare the offeror's proposal as non-responsive.

Company: _____

Signature: _____

Name: _____

Title: _____ Date: _____

(Affix Corporate Seal)

Form D: OFFEROR'S DISCLOSURE FORM AND QUESTIONNAIRE

1. Please provide the names and business addresses of each of the Offeror's firm's officers and directors.

For the purposes of this form, the term "Offeror" means an entity that responds to a solicitation for a County contract by either submitting a proposal in response to a Request for Proposal or a Request for Qualification or a Bid in response to an Invitation to Bid. Describe accurately, fully and completely, their respective relationships with said Offeror, including their ownership interests and their anticipated role in the management and operations of said Offeror.

2. Please describe the general development of said Offeror's business during the past five (5) years, or such shorter period of time that said Offeror has been in business.

3. Please state whether any employee, agent or representative of said Offeror who is or will be directly involved in the subject project has or had within the last five (5) years: (i) directly or indirectly had a business relationship with Fulton County; (ii) directly or indirectly received revenues from Fulton County; or (iii) directly or indirectly receives revenues from the result of conducting business on Fulton County property or pursuant to any contract with Fulton County. Please describe in detail any such relationship.

LITIGATION DISCLOSURE:

Failure to fully and truthfully disclose the information required, may result in the disqualification of your bid or proposal from consideration or termination of the Contract, once awarded.

1. Please state whether any of the following events have occurred in the last five (5) years with respect to said Offeror. If any answer is yes, explain fully the following:

(a) whether a petition under the federal bankruptcy laws or state insolvency laws was filed by or against said Offeror, or a receiver fiscal agent or similar officer was appointed by a court for the business or property of said Offeror;

Circle One: YES NO

(b) whether Offeror was subject of any order, judgment, or decree not subsequently reversed, suspended or vacated by any court of competent jurisdiction, permanently enjoining said Offeror from engaging in any type of business practice, or otherwise eliminating any type of business practice; and

Circle One: YES NO

(c) whether said Offeror's business was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to said or Offeror, which directly arose from activities conducted by the business unit or corporate division of said Offeror which submitted a bid or proposal for the subject project. If so please explain.

Circle One: YES NO

2. Have you or any member of your firm or team to be assigned to this engagement ever been indicted or convicted of a criminal offense within the last five (5) years?

Circle One: YES NO

3. Have you or any member of your firm or team been terminated (for cause or otherwise) from any work being performed for Fulton County or any other Federal, State or Local Government?

Circle One: YES NO

-
4. Have you or any member of your firm or team been involved in any claim or litigation adverse to Fulton County or any other federal, state or local government, or private entity during the last three (3) years?

Circle One: YES NO

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

Circle One: YES NO

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

NOTE: If any response to any question set forth in this questionnaire has been disclosed in any other document, a response may be made by attaching a copy of such disclosure. (For example, said Offeror's most recent filings with the Securities and Exchange Commission ("SEC") may be provided if they are responsive to certain items within the questionnaire.) However, for purposes of clarity, Offeror should correlate its responses with the exhibits by identifying the exhibit and its relevant text.

Disclosures must specifically address, completely respond and comply with all information requested and fully answer all questions requested by Fulton County. Such disclosure must be submitted at the time of the bid or proposal submission and included as a part of the bid/proposal submitted for this project. Disclosure is required for Offerors, joint venture partners and first-tier subcontractors.

Failure to provide required disclosure, submit officially signed and notarized documents or respond to any and all information requested/required by Fulton County can result in the bid/proposal declared as non-responsive. This document must be completed and included as a part of the bid/proposal package along with other required documents.

[SIGNATURES ON NEXT PAGE]



Under penalty of perjury, I declare that I have examined this questionnaire and all attachments hereto, if applicable, to the best of my knowledge and belief, and all statements contained hereto are true, correct, and complete.

On this _____ day of _____, 2013

(Legal Name of Proponent) (Date)

(Signature of Authorized Representative) (Date)

(Title)

Sworn to and subscribed before me,

This _____ day of _____, 2013

(Notary Public) (Seal)

Commission Expires _____
(Date)

**FORM E: GEORGIA SECURITY AND IMMIGRATION CONTRACTOR
AFFIDAVIT**

Instructions:

Contractors must attest to compliance with the requirements of O.C.G.A 13-10-91 and the Georgia Department of Labor Rule 300-10-01-.02 by executing the Contractor Affidavit.

STATE OF GEORGIA

COUNTY OF FULTON

**FORM E: GEORGIA SECURITY AND IMMIGRATION CONTRACTOR AFFIDAVIT
AND AGREEMENT**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with **[insert name of prime contractor]** _____ on behalf of **Fulton County Government** has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services to this contract with **Fulton County Government**, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the **Fulton County Government** at the time the subcontractor(s) is retained to perform such service.

EEV/Basic Pilot Program* User Identification Number

BY: Authorized Officer of Agent
(Insert Contractor Name)

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

Sworn to and subscribed before me this _____ day of _____, 2013.

Notary Public: _____

County: _____

Commission Expires: _____

NOTE:

* As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the “EEV/Basic Pilot Program” operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

**FORM F: GEORGIA SECURITY AND IMMIGRATION SUBCONTRACTOR
AFFIDAVIT**

Instructions:

In the event that your company is awarded the contract for this project, and will be utilizing the services of any subcontractor(s) in connection with the physical performance of services pursuant to this contract, the following affidavit must be completed by such subcontractor(s). Your company must provide a copy of each such affidavit to Fulton County Government, Department of Purchasing & Contract Compliance with the proposal submittal.

All subcontractor affidavit(s) shall become a part of the contract and all subcontractor(s) affidavits shall be maintained by your company and available for inspection by Fulton County Government at any time during the term of the contract. All subcontractor(s) affidavit(s) shall become a part of any contractor/subcontractor agreement(s) entered into by your company.

STATE OF GEORGIA

COUNTY OF FULTON

FORM F: GEORGIA SECURITY AND IMMIGRATION SUBCONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with **[insert name of prime contractor]** _____ behalf of **Fulton County Government** has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

EEV/Basic Pilot Program* User Identification Number

BY: Authorized Officer of Agent
(Insert Subcontractor Name)

Title of Authorized Officer or Agent of Subcontractor

Printed Name of Authorized Officer or Agent

Sworn to and subscribed before me this _____ day of _____, 2013.

Notary Public: _____

County: _____

Commission Expires: _____

NOTE:

* As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

FORM G: GEORGIA PROFESSIONAL LICENSE CERTIFICATION

NOTE: Please complete this form for the work your firm will perform on this project.

Contractor's Name: _____

Performing work as: Prime Contractor _____ Sub-Contractor _____

Professional License Type: _____

Professional License Number: _____

Expiration Date of License: _____

I certify that the above information is true and correct and that the classification noted is applicable to the Bid for this Project.

Signed: _____

Date: _____

(ATTACH COPY OF LICENSE)

STATE OF GEORGIA

COUNTY OF FULTON

FORM H: LOCAL PREFERENCE AFFIDAVIT OF BIDDER/OFFEROR

I hereby certify that pursuant to Fulton County Code Section 102-358(f), the Bidder/Offeror _____ is eligible to receive local preference points and has a staffed, fixed, physical, place of business located within Fulton County and has had the same for at least one (1) year prior to the date of submission of its proposal or bid and has held a valid business license from Fulton County or a city within Fulton County boundaries for the business at a fixed, physical, place of business, for at least one (1) year prior to the date of submission of its proposal or bid.

Affiant further acknowledges and understands that pursuant to Fulton County Code Section 102-358(f), in the event this affidavit is determined to be false, the business named herein shall be deemed "non-responsive" and shall not be considered for award of the applicable contract.

_____ (Affix corporate seal here, if a corporation)
(BUSINESS NAME)

(FULTON COUNTY BUSINESS ADDRESS)

(OFFICIAL TITLE OF AFFIANT)

(NAME OF AFFIANT)

(SIGNATURE OF AFFIANT)

Sworn to and subscribed before me this _____ day of _____, 2013.

Notary Public: _____

County: _____

Commission Expires: _____

STATE OF GEORGIA

COUNTY OF FULTON

FORM I: SERVICE DISABLED VETERAN PREFERENCE AFFIDAVIT
OF BIDDER/OFFEROR

I hereby certify that pursuant to Fulton County Code Section 102-361, the Bidder/Offeror _____ is eligible to receive Service Disabled Veteran Business Enterprise preference points and is independent and continuing operation for profit, performing a commercially useful function, and is owned and controlled by one or more individuals who are at least thirty percent (30%) disabled as a result of military service who has been honorably discharged, designated as such by the United States Department of Veterans Affairs, and that the businesses is located within the geographic boundaries of Fulton County.

Affiant further acknowledges and understands that pursuant to Fulton County Code Section 102-361(e), in the event this affidavit is determined to be false, the business named herein shall be deemed "non-responsive" and shall not be considered for award of the applicable contract.

_____ (Affix corporate seal here, if a corporation)
(BUSINESS NAME)

(FULTON COUNTY BUSINESS ADDRESS)

(OFFICIAL TITLE OF AFFIANT)

(NAME OF AFFIANT)

(SIGNATURE OF AFFIANT)

Sworn to and subscribed before me this _____ day of _____, 2013.

Notary Public: _____

County: _____

Commission Expires: _____

SECTION 6
CONTRACT COMPLIANCE REQUIREMENTS

6.1 NON-DISCRIMINATION IN PURCHASING AND CONTRACTING

It is the policy of Fulton County Government that discrimination against businesses by reason of the race, color, gender or national origin of the ownership of any such business is prohibited. Furthermore, it is the policy of the Board of Commissioners ("Board") that Fulton County and all vendors and contractors doing business with Fulton County shall provide to all businesses the opportunity to participate in contracting and procurement paid, in whole or in part, with monetary appropriations of the Board without regard to the race, color, gender or national origin of the ownership of any such business. Similarly, it is the policy of the Board that the contracting and procurement practices of Fulton County should not implicate Fulton County as either an active or passive participant in the discriminatory practices engaged in by private contractors or vendors seeking to obtain contracts with Fulton County.

Implementation of Equal Employment Opportunity (EEO) Policy

The County effectuates Equal Employment Opportunity thru Policy #800-8, Non-Discrimination in Contracting and Procurement. This policy considers racial and gender workforce availability. The availability of each workgroup is derived from the work force demographics set forth in the 2000 Census EEO file prepared by the United States Department of Commerce for the applicable labor pool normally utilized for the contract.

Monitoring of EEO Policy

Upon award of a contract with Fulton County, the successful bidder/proposer must complete an Equal Employment Opportunity Report (EEOR), describing the racial and gender make-up of the firm's work force. If the EEOR indicates that the firm's demographic composition indicates underutilization of employee's of a particular ethnic group for each job category, the firm will be required to submit an aggressive action plan setting forth steps the firm will take to address the identified underutilization.

6.2 EQUAL BUSINESS OPPORTUNITY PLAN (EBO PLAN)

In addition to the proposal submission requirements, each vendor **must** submit an Equal Business Opportunity Plan (EBO Plan) with their bid/proposal. The EBO Plan is designed to enhance the utilization of a particular racial, gender or ethnic group by a bidder/proposer, contractor, or vendor or by Fulton County. The respondent **must** outline a plan of action to encourage and achieve diversity and equality in the available procurement and contracting opportunities with *this solicitation*.

The EBO Plan **must** identify and include:

-
1. Potential opportunities within the scope of work of *this solicitation* that will allow for participation of racial, gender or ethnic groups.
 2. Efforts that will be made by the bidder/proposer to encourage and solicit minority and female business utilization in *this solicitation*.

Fulton County encourages joint ventures, teaming, partnering and mentor-protégé relationships with minority and female businesses in an effort to achieve contracting and procurement diversity.

Prompt Payment: The prime contractor **must** certify in writing and **must** document all subcontractors, sub-consultants and suppliers have been promptly paid for work and materials, (less any retainage by the prime contractor prior to receipt of any further progress payments). In the event the prime contractor is unable to pay subcontractors, sub-consultants or suppliers until it has received a progress payment from Fulton County, the prime contractor shall pay all subcontractors, sub-consultants or suppliers funds due from said progress payment within forty-eight (48) hours of receipt of payment from Fulton County. In no event shall a subcontractor, sub-consultant or supplier be paid later than fifteen (15) days as provided for by state law.

6.3 DETERMINATION OF GOOD FAITH EFFORTS

During the course of the project, the Prime Contractor shall demonstrate that they have made all efforts reasonably possible to ensure that Minority and Female Business Enterprises (MFBE) have had a full and fair opportunity to compete and win subcontracts on this project. The Prime Contractor is required to include all outreach attempts that would demonstrate a "Good Faith Effort" in the solicitation of sub-consultants/subcontractors.

Written documentation demonstrating the Prime Contractor's outreach efforts to identify, contact, contract with or utilize Minority or Female owned businesses shall include holding pre-bid conferences, publishing advertisements in general circulation media, trade association publications, minority-focused media, and the County's bid board, as well as other efforts.

Include a list of publications where the advertisement was placed as well as a copy of the advertisement. Advertisement shall include at a minimum, scope of work, project location, location(s) of where plans and specifications may be viewed or obtained and trade or scopes of work for which subcontracts are being solicited.

6.4 REQUIRED FORMS

In order to be compliant with the intent and provisions of the Fulton County Non-Discrimination in Purchasing and Contracting Ordinance (99-0960), bidders/proposers

must submit the following completed documents. Failure to provide this information **shall** result in the proposal being deemed non-responsive.

- Exhibit A – Promise of Non-Discrimination
- Exhibit B – Employment Report
- Exhibit C – Schedule of Intended Subcontractor Utilization
- Exhibit D – Letter of Intent to Perform as a Subcontractor or Provide Materials or Services
- Exhibit E – Declaration Regarding Subcontractors Practices
- Exhibit F – Joint Venture Disclosure Affidavit
- Equal Business Opportunity Plan (EBO Plan). This document is not a form rather a statement created by the bidder/proposer on its company letter head addressing the EBO Plan requirements.
- Exhibit H – First Source Jobs Program Information, Form 2

The following document must be completed as instructed if awarded the project:

- Exhibit G – Prime Contractor’s Subcontractor Utilization Report
- Exhibit H – First Source Jobs Program Agreement, Form 3

All Contract Compliance documents (Exhibits A – H and EBO Plan) are to be placed in a **separate sealed envelope** clearly marked “Contract Compliance”. The EBO Plan must be submitted on company letterhead. These documents are considered part of and should be submitted with the Technical Proposal.

EXHIBIT A – 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: _____

EXHIBIT B – EMPLOYMENT REPORT

The demographic employment make-up for the bidder must be identified and submitted with this bid/proposal. In addition, if subcontractors will be utilized by the bidder/proposer to complete this project, then the demographic employment make-up of the subcontractor(s) must be identified and submitted with this bid.

JOB CATEGORIES	TOTAL EMPLOYED		TOTAL MINORITIES		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	M	F	M	F	
EXECUTIVE/SENIOR LEVEL OFFICIALS and MANAGERS																			
FIRST/MID LEVEL OFFICIALS and MANAGERS																			
PROFESSIONALS																			
TECHNICIANS																			
SALES WORKERS																			
ADMINISTRATIVE SUPPORT WORKERS																			
CRAFT WORKERS																			
OPERATIVES																			
LABORERS & HELPERS																			
SERVICE WORKERS																			
TOTAL																			

FIRMS'S NAME
 ADDRESS
 TELEPHONE

This completed form is for (Check only one):
 Submitted by:

Bidder/Proposer

Subcontractor

Date Completed:

EXHIBIT C - SCHEDULE OF INTENDED SUBCONTRACTOR UTILIZATION

If the bidder/proposer intends to subcontract any portion of this scope of work/service(s), this form **must be** completed and **submitted with the bid/proposal**. All prime bidders/proposers **must** include Letter(s) of Intent (Exhibit D) in the bid document for all subcontractors who will be utilized under the scope of work/services.

Prime Bidder/Proposer: _____

ITB/RFP Number: _____

Project Name or Description of Work/Service(s): _____

1. My firm, as Prime Bidder/Proposer on this scope of work/service(s) is _____ is not _____ a minority or female owned and controlled business enterprise. (Please indicate below the portion of work, including, percentage of bid/proposal amount that your firm will carry out directly):

2. If the Prime Bidder/Proposer is a Joint Venture, please complete Exhibit F: Joint Venture Disclosure Affidavit and attach a copy of the executed Joint Venture Agreement.

3. Sub-Contractors (including suppliers) to be utilized in the performance of this scope of work/service(s), if awarded, are:

SUBCONTRACTOR NAME: _____

ADDRESS: _____

PHONE: _____

CONTACT PERSON: _____

ETHNIC GROUP*: _____ COUNTY CERTIFIED** _____

WORK TO BE PERFORMED: _____

DOLLAR VALUE OF WORK: \$ _____ PERCENTAGE VALUE: _____ %

***Ethnic Groups: African American (AABE); Asian American (ABE); Hispanic American (HBE); Native American (NABE); White Female American (WFBE); **If yes, please attach copy of recent certification.**

SUBCONTRACTOR NAME: _____
ADDRESS: _____

PHONE: _____
CONTACT PERSON: _____
ETHNIC GROUP*: _____ COUNTY CERTIFIED** _____
WORK TO BE PERFORMED: _____

DOLLAR VALUE OF WORK: \$ _____ PERCENTAGE VALUE: _____ %

SUBCONTRACTOR NAME: _____
ADDRESS: _____

PHONE: _____
CONTACT PERSON: _____
ETHNIC GROUP*: _____ COUNTY CERTIFIED** _____
WORK TO BE PERFORMED: _____

DOLLAR VALUE OF WORK: \$ _____ PERCENTAGE VALUE: _____ %

SUBCONTRACTOR NAME: _____
ADDRESS: _____

PHONE: _____
CONTACT PERSON: _____
ETHNIC GROUP*: _____ COUNTY CERTIFIED** _____
WORK TO BE PERFORMED: _____

DOLLAR VALUE OF WORK: \$ _____ PERCENTAGE VALUE: _____ %

SUBCONTRACTOR NAME: _____
ADDRESS: _____

PHONE: _____
CONTACT PERSON: _____
ETHNIC GROUP*: _____ COUNTY CERTIFIED** _____
WORK TO BE PERFORMED: _____

DOLLAR VALUE OF WORK: \$ _____ PERCENTAGE VALUE: _____ %

***Ethnic Groups: African American (AABE); Asian American (ABE); Hispanic American (HBE); Native American (NABE); White Female American (WFBE); **If yes, please attach copy of recent**

certification.

Total Dollar Value of Subcontractor Agreements: (\$)

Total Percentage Value: (%)

CERTIFICATION: The undersigned certifies that he/she has read, understands and agrees to be bound by the Bid/Proposer provisions, including the accompanying Exhibits and other terms and conditions regarding sub-contractor utilization. The undersigned further certifies that he/she is legally authorized by the Bidder/Proposer to make the statement and representation in this Exhibit and that said statements and representations are true and correct to the best of his/her knowledge and belief. The undersigned understands and agrees that if any of the statements and representations are made by the Bidder/Proposer knowing them to be false, or if there is a failure of the intentions, objectives and commitments set forth herein without prior approval of the County, then in any such event the Contractor's acts or failure to act, as the case may be, shall constitute a material breach of the contract, entitling the County to terminate the Contract for default. The right to so terminate shall be in addition to, and in lieu of, any other rights and remedies the County may have for other defaults under the contract.

Signature: _____ **Title:** _____

Firm or Corporate Name: _____

Address: _____

Telephone: () _____

Fax Number: () _____

Email Address: _____

EXHIBIT D

**LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR
OR
PROVIDE MATERIALS OR SERVICES**

This form **must** be completed by **ALL** known subcontractor and submitted with the bid/proposal. The Prime Contractor **must** submit Letters of Intent for **ALL** known subcontractors at time of bid submission.

To: _____
(Name of Prime Contractor Firm)

From: _____
(Name of Subcontractor Firm)

ITB/RFP Number: _____

Project Name: _____

The undersigned is prepared to perform the following described work or provide materials or services in connection with the above project (specify in detail particular work items, materials, or services to be performed or provided):

Description of Work	Project Commence Date	Project Completion Date	Estimated Dollar Amount

(Prime Bidder)

(Subcontractor)

Signature _____

Signature _____

Title _____

Title _____

Date _____

Date _____

EXHIBIT E - DECLARATION REGARDING SUBCONTRACTING PRACTICES

If the bidder/proposer **does not intend to subcontract** any portion of the scope of work services(s), this form **must be** completed and submitted with the bid/proposal.

_____ hereby declares that it is my/our intent to
(Bidder)

perform 100% of the work required for _____
(ITB/RFP Number)

(Description of Work)

In making this declaration, the bidder/proposer states the following:

1. That the bidder/proposer does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform **all elements** of the work on this project with his/her own current work forces;
2. If it should become necessary to subcontract some portion of the work at a later date, the bidder/proposer will comply with all requirements of the County's Non-Discrimination Ordinance in providing equal opportunities to all firms to subcontract the work. The determination to subcontract some portion of the work at a later date shall be made in good faith and the County reserves the right to require additional information to substantiate a decision made by the bidder/proposer to subcontract work following the award of the contract. Nothing contained in this provision shall be employed to circumvent the spirit and intent of the County's Non-Discrimination Ordinances;
3. The bidder will provide, upon request, information sufficient for the County to verify Item Number one.

AUTHORIZED COMPANY REPRESENTATIVE

Name: _____ **Title:** _____ **Date:** _____

Signature: _____

Firm: _____

Address: _____

Phone Number: _____

Fax Number: _____

Email Address: _____

EXHIBIT F - JOINT VENTURE DISCLOSURE AFFIDAVIT

ITB/RFP No. _____

Project Name _____

This form must be completed and submitted with the bid/proposal if a joint venture approach is to be undertaken.

In order to evaluate the extent of small, minority and female business involvement being proposed by a Bidder/Proposer, certain relevant information must be provided prior to contract award. The information requested below is to clearly identify and explain the extent of small business participation in the proposed joint venture. All items must be properly addressed before the business entity can be evaluated.

1. Firms:

1) **Name of Business:** _____
Street Address: _____
Telephone No.: _____
Nature of Business: _____

2) **Name of Business:** _____
Street Address: _____
Telephone No.: _____
Nature of Business: _____

3) **Name of Business:** _____
Street Address: _____
Telephone No.: _____
Nature of Business: _____

NAME OF JOINT VENTURE (If applicable): _____

ADDRESS: _____

PRINCIPAL OFFICE: _____

OFFICE PHONE: _____

Note: Attach additional sheets as required

1. Describe the capital contributions by each joint venturer and accounting thereof.
2. Describe the financial controls of the joint venture, e.g., will a separate cost center be established? Which venturer will be responsible for keeping the books? How will the expense therefore be reimbursed? What is the authority of each joint venture to commit or obligate the order?
3. Describe any ownership, options for ownership, or loans between the joint ventures. Identify terms thereof.
4. Describe the estimated contract cash flow for each joint venturer.
5. To what extent and by whom will the on-site work be supervised?
6. To what extent and by whom will the administrative office be supervised?
7. Which joint venturer will be responsible for material purchases including the estimated cost thereof? How will the purchase be financed?
8. Which joint venturer will provide equipment? What is the estimated cost thereof? How will the equipment be financed?
9. Describe the experience and business qualifications of each joint venturer.
10. Submit a copy of all joint venture agreements and evidence of authority to do business in the State of Georgia as well as locally, to include all necessary business licenses.
11. Percent of Minority/Female Business Enterprises ownership by each joint venture in terms of profit and loss sharing: _____

12. The authority of each joint venturer to commit or obligate the other: _____

13. Number of personnel to be involved in project, their crafts and positions and whether they are employees of the Minority/Female Business Enterprises enterprise, the majority

firm or the joint venture: _____

14. Identification of control and participation in venture; list those individuals who are responsible for day-to-day management and policy decision-maker, including, but not limited to, those with prime responsibility for areas designated below; (use additional sheets if necessary)

<u>Name</u>	<u>Race</u>	<u>Sex</u>	<u>Financial Decisions</u>	<u>Supervision Field Operation</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

In connection with any work that these firms, as a joint venture, might be authorized to perform in connection with above captioned contract, we each do hereby authorize representatives of the Fulton County Department of Contract Compliance, Departments of Purchasing and Contract Compliance, and Finance, under the direction of the County Manger's Office, to examine, from time to time, the books, records and files to the extent that such relate to this County project.

WE DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT WE ARE AUTHORIZED, ON BEHALF OF THE ABOVE FIRMS, TO MAKE THIS AFFIDAVIT AND GRANT THE ABOVE PRIVILEGE.

FOR _____
(Company)

Date: _____

(Signature of Affiant)

(Printed Name)

(Company)

Date: _____

(Signature of Affiant)

(Printed Name)

State of _____:

County of _____:

On this ____ day of _____, 20____, before me, appeared _____, the undersigned officer, personally appeared _____ known to me to be the person described in the foregoing Affidavit and acknowledges that he (she) executed the same in the capacity therein stated and for the purpose therein

contained.

EXHIBIT – G PRIME CONTRACTOR/SUB-CONTRACTOR UTILIZATION REPORT

This report must be submitted by the **tenth day** of each month, along with a copy of your monthly invoice (schedule of values/payment application) to Contract Compliance. Failure to comply shall result in the County commencing proceedings to impose sanctions to the prime contractor, in addition to pursuing any other available legal remedy. Sanctions may include the suspending of any payment or part thereof, termination or cancellation of the contract, and the denial of participation in any future contracts awarded by Fulton County.

REPORTING PERIOD	PROJECT NAME:
FROM:	PROJECT NUMBER:
TO:	PROJECT LOCATION:

PRIME CONTRACTOR		Contract Award Date	Contract Award Amount	Change Order Amount	Contract Period	% Complete to Date
Name:						
Address:						
Telephone #:						

AMOUNT OF REQUISITION THIS PERIOD: \$ _____
 TOTAL AMOUNT REQUISITION TO DATE: \$ _____
 TOTAL AMOUNT REQUISITION TO DATE: \$ _____

SUBCONTRACTOR UTILIZATION (add additional rows as necessary)						
Name of Sub-Contractor	Description of Work	Contract Amount	Amount Paid To Date	Amount Requisition This Period	Contract Period Starting Date	Contract Period Ending Date
TOTALS						

Executed By: _____ (Signature) _____ (Printed Name)

Notary: _____ Date: _____ My Commission Expires: _____

Should you have questions regarding any of the documents contained in Section 6, please feel free to contact the Office of Contract Compliance at (404) 612-6300 for further assistance.

EXHIBIT H

FULTON COUNTY FIRST SOURCE JOBS PROGRAM

STATEMENT OF POLICY:

It is the policy of Fulton County Government to provide employment opportunities to the citizens of Fulton County. This policy will apply to all contracts procured through the Department of Purchasing & Contract Compliance valued in excess of \$200,000. The Prime Contractor is expected to utilize the First Source Jobs Program to fill 50% of the entry level jobs which arise as a result of any project funded in whole or in part with County funds with residents of Fulton County.

PURPOSE:

The purpose of this policy is to create a pool of employable persons who are residents of Fulton County to be called upon as a source to fill jobs created as a result of any eligible project funded in whole or in part with County funds in order to provide stable economic opportunities for families throughout the County. The First Source Jobs Program will be implemented by the Department of Purchasing & Contract Compliance and the Office of Workforce Development.

MONITORING POLICY:

Upon execution of a contract with Fulton County Government, the First Source Jobs Agreement (FSJ Form 2) will become a part of the contract between the bidder/proposer and Fulton County Government. The First Source Jobs Program will be monitored during routine site visits by the Office of Contract Compliance along with the Office of Workforce Development.

FULTON COUNTY (Form 1)

First Source Jobs Program Information

Company Name: _____

Project Number: _____

Project Name: _____

The following entry-level positions will become available as a result of the above referenced contract with Fulton County.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

Include a job description and all required qualifications for each position listed above.

Identify a company representative and contact phone number who will be responsible for coordinating with the First Source Jobs Program:

Company Representative: _____

Phone Number: _____

Email Address: _____

FORM 2

**FULTON COUNTY(Form2)
First Source Jobs Program Agreement**

Awarded Contractor's Name: _____

Formal Contract Name: _____

RFP/ITB Number: _____

Contact Person: _____

Contact Phone: _____

The contractor listed above agrees to the following:

1. The contractor shall make a good faith effort to fill 50% of the entry level position(s) created by this project using the Fulton County First Source Jobs Program.
2. The contractor shall provide the applicable details of every entry level job in writing within the required form.
3. The contractor shall be expected to present documentation that confirms employment terms to both the employee and Fulton County.

The Office of Contract Compliance will assist with monitoring the participation of First Source Jobs Program employees during routine site visits and report findings to the Office of Workforce Development for confirmation and follow-up. The Office of Workforce Development shall notify the Director of Human Services and the Purchasing Agent of any determination of non-compliance with the requirements of this policy and recommend a resolution or action to be taken.

Upon a determination by the Purchasing Agent and the Director of Human Services that a contractor has failed to comply with any portion of this policy, the County may impose the following:

1. Ten percent (10%) of all future payments under the involved eligible project shall be entitled to be withheld from a contractor that has violated this policy until the contractor complies with the provisions of this policy.

The undersigned agrees to the terms and conditions set forth in this agreement.

Contractor's Official Title: _____ Date: _____

Contractor's Name: _____

Contractor's Signature: _____

Insurance and Risk Management Provisions Standby Architectural and Engineering Professional Services

It is Fulton County Government's practice to obtain Certificates of Insurance from our Contractors and Vendors. Insurance must be written by a licensed agent in a company licensed to write insurance in the State of Georgia, with an A.M. Best rating of at least A- VI, subject to final approval by Fulton County. Respondents shall submit with the bid/proposal evidence of insurability satisfactory to Fulton County Government as to form and content. Either of the following forms of evidence is acceptable:

- A letter from an insurance carrier stating that upon your firm/company being the successful Bidder/Respondent that a Certificate of Insurance shall be issued in compliance with the Insurance and Risk Management Provisions outlined below.
- A Certificate of Insurance complying with the Insurance and Risk Management Provisions outlined below (Request for Bid/Proposal number and Project Name, Number and Description must appear on the Certificate of Insurance).
- A combination of specific policies written with an umbrella policy covering liabilities in excess of the required limits is acceptable to achieve the applicable insurance coverage levels.

Upon award, the Contractor/Vendor must maintain at their expense, insurance with policy limits equal to or greater than the limits described below. Proof of insurance must be provided to Fulton County Government prior to the start of any activities/construction as described in the bid document(s). Any and all Insurance Coverage(s) and Bonds required under the terms and conditions of the contract shall be maintained during the entire length of the contract, including any extensions or renewals thereto, and until all work has been completed to the satisfaction of Fulton County Government.

Accordingly the Respondent shall provide a certificate evidencing the following:

1. WORKERS COMPENSATION/EMPLOYER'S LIABILITY INSURANCE – STATUTORY (In compliance with the Georgia Workers Compensation Acts and any other State or Federal Acts or Provisions in which jurisdiction may be granted)

Employer's Liability Insurance	BY ACCIDENT	EACH ACCIDENT	\$500,000
Employer's Liability Insurance	BY DISEASE	POLICY LIMIT	\$500,000
Employer's Liability Insurance	BY DISEASE	EACH EMPLOYEE	\$500,000

2. COMMERCIAL GENERAL LIABILITY INSURANCE (Including contractual Liability Insurance)

Bodily Injury and Property Damage Liability (Other than Products/Completed Operations)General Aggregate	Each Occurrence	\$1,000,000
		\$2,000,000
Products\Completed Operation	Aggregate Limit	\$2,000,000
Personal and Advertising Injury	Limits	\$1,000,000
Damage to Rented Premises	Limits	\$100,000

3. **BUSINESS AUTOMOBILE LIABILITY INSURANCE**
Combined Single Limits Each Occurrence \$1,000,000
(Including operation of non-owned, owned, and hired automobiles).
4. **UMBRELLA LIABILITY**
(In excess of above noted coverages) Each Occurrence \$1,000,000
5. **PROFESSIONAL LIABILITY** Per Claim/Aggregate \$2,000,000/\$2,000,000
*Completed Operations: Statute of Repose for state of GA

Certificates of Insurance

Certificates shall state that the policy or policies shall not expire, be cancelled or altered without at least thirty (30) days prior written notice to Fulton County Government. Policies and Certificates of Insurance are to list Fulton County Government as an Additional Insured (except for Workers' Compensation AND Professional Liability) and shall conform to all terms and conditions (including coverage of the indemnification and hold harmless agreement) contained in the Insurance and Risk Management Provisions. The General Liability Additional Insured language should apply to on-going and completed-operations, using ISO form CG 2010 (11/85 version), its equivalent or on a blanket basis.

If Fulton County Government shall so request, the Respondent, Contractor or Vendor will furnish the County for its inspection and approval such policies of insurance with all endorsements, or confirmed specimens thereof certified by the insurance company to be true and correct copies.

The Contractor agrees to name the Owner and all other parties required of the Contractor/Vendor shall be included as additional insureds on the CGL. This insurance shall apply as Primary Insurance before any other insurance or self-insurance, including any deductible, non-contributory, and Waiver of Subrogation provided in favor of Fulton County.

Additional Insured under the General Liability, Auto Liability, Umbrella Policies (with exception of Workers Compensation and Professional Liability), with no Cross Suits exclusion.

Important:

It is understood that **Insurance in no way Limits the Liability of the Contractor/Vendor.**

USE OF PREMISES

Contractor/Vendor shall confine its apparatus, the storage of materials and the operations of its workers to limits/requirements indicated by law, ordinance, permits and any restrictions of Fulton County Government and shall not unreasonably encumber the premises with its materials.

PROTECTION OF PROPERTY

Contractor/Vendor will adequately protect its own work from damage, will protect Fulton County Government's property from damage or loss and will take all necessary precautions during the progress of the work to protect all persons and the property of others from damage or loss.

Contractor/Vendor shall take all necessary precautions for the safety of employees of the work and shall comply with all applicable provisions of the Federal, State and local safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where work is being performed.

Contractor/Vendor shall erect and properly maintain at all times as required by the conditions and progress of the work, all necessary safeguards for the protection of its employees, Fulton County Government employees and the public and shall post all applicable signage and other warning devices to protect against potential hazards for the work being performed.

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

Consultant/Contractor shall indemnify, release, and hold harmless Fulton County, its Commissioners and their respective officers, members, employees, and agents, from and against all liability, damages, costs, expenses (including reasonable attorney's fees and expenses incurred by any of them), claims, suits and judgments only to the extent such liability arises or results from the negligence of the Consultant/Contractor in the delivery of the Work under this Agreement, but such indemnity is limited to those liabilities arising from a Negligent Professional Act, as defined below. 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.

For the purposes of the Professional Services Indemnity above, a "Negligent Professional Act" means a negligent act, error, or omission in the performance of Professional Services (or by any person or entity, including joint ventures, for whom Consultant/Contractor is liable) that causes liability and fails to meet the applicable professional standard of care, skill and ability under similar conditions and like surrounding circumstances, as is ordinarily employed by others in their profession.

CONTRACTOR/VENDOR ACKNOWLEDGES HAVING READ, UNDERSTANDING, AND AGREEING TO COMPLY WITH THIS INDEMNIFICATION AND HOLD HARMLESS AGREEMENT, AND THE REPRESENTATIVE OF THE CONTRACTOR/VENDOR IDENTIFIED BELOW IS AUTHORIZED TO SIGN CONTRACTS ON BEHALF OF THE RESPONDING CONTRACTOR/VENDOR.

Standby Architectural and Engineering Professional Services

COMPANY: _____ SIGNATURE: _____

NAME: _____ TITLE: _____

DATE: _____



FULTON COUNTY



CONTRACT DOCUMENTS FOR

14RFP073113K-JAJ

**STANDBY PROFESSIONAL SERVICES FOR
FACILITIES RELATED PLANNING, DESIGN,
ENGINEERING AND ASSESSMENTS –
ARCHITECTURAL & ENGINEERING SERVICES**

For

FACILITIES AND TRANSPORTATION SERVICES DEPARTMENT

Index of Articles

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Exhibits

EXHIBIT A:	<u>GENERAL CONDITIONS</u>
EXHIBIT B:	<u>SPECIAL CONDITIONS</u>
EXHIBIT C:	<u>SCOPE OF WORK</u>
EXHIBIT D:	<u>PROJECT DELIVERABLES</u>
EXHIBIT E:	<u>COMPENSATION</u>
EXHIBIT F:	<u>PURCHASING FORMS</u>
EXHIBIT G:	<u>CONTRACT COMPLIANCE FORMS</u>
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APPENDICES

APPENDIX 1:	<u>POLICY 800-6, PROCEDURES FOR HANDLING CHANGE ORDERS</u>
APPENDIX 2:	<u>APPLICATION FORMS</u>
APPENDIX 3:	<u>PROCEDURES</u>

CONTRACT AGREEMENT

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

This Agreement made and entered into effective the _____ day of _____, 2013 by and between **FULTON COUNTY, GEORGIA**, a political subdivision of the State of Georgia, hereinafter referred to as "**County**", and **[Insert Consultant Company Name]**, hereinafter referred to as "**Consultant**", authorized to transact business in the State of Georgia.

WITNESSETH

WHEREAS, County through its **FACILITIES AND TRANSPORTATION SERVICES DEPARTMENT** hereinafter referred to as the "**Department**", desires to retain a qualified and experienced Consultant to perform **STANDBY PROFESSIONAL SERVICES FOR FACILITIES RELATED PLANNING, DESIGN, ENGINEERING AND ASSESSMENTS – ARCHITECTURAL & ENGINEERING SERVICES**, hereinafter, referred to as the "**Project**".

WHEREAS, Consultant 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 Consultant agree as follows:

ARTICLE 1. CONTRACT DOCUMENTS

County hereby engages Consultant, and Consultant 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: Project Deliverables;
- VII. Exhibit E: Compensation;
- VIII. Exhibit F: Purchasing Forms;
- IX. Exhibit G: Office of Contract Compliance Forms;
- X. Exhibit H: Insurance and Risk Management Forms;
- XI. Appendix 1: Policy 800-6, Procedure for Handling Change Orders

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 Policy and Procedure 800-6 governing change orders, is signed by the County's and the Consultant'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 RFP, 3) any Addenda, 4) change orders, 5) the exhibits, and 6) portions of Consultant'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 Consultant agree the Project is to provide Standby Professional Services for Facilities related Design, Engineering and Assessments in support of the Facilities and Transportation Services Department to establish one (1) or more stand-by contracts for each group or discipline identified within Scope of Work on an "as needed-task assignment" basis for professional services. 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 Consultant shall not be construed to exceed those services specifically set forth herein. Consultant agrees to provide all services, products, and data and to perform all tasks described in Exhibit C, Scope of Work.

ARTICLE 5. DELIVERABLES

Consultant shall deliver to County all reports prepared under the terms of this Agreement that are specified in Exhibit D, Project Deliverables. Consultant shall provide to County all deliverables specified in Exhibit D, Project Deliverables. Deliverables shall be furnished to County by Consultant in a media of form that is acceptable and usable by County at no additional cost at the end of the project.

ARTICLE 6. SERVICES PROVIDED BY COUNTY

Consultant 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 Consultant 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. Consultant may rely upon written consents and approvals signed by County's authorized representative that are consistent with County rules and regulations.

ARTICLE 7. MODIFICATIONS

If during the course of performing the Project, County and Consultant 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 Fulton County Policy 800-6, specified in Appendix 1.

ARTICLE 8. SCHEDULE OF WORK

Consultant 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 Consultant from County. The Consultant shall begin work under this Agreement no later than five (5) days after the effective date of notice to proceed.

ARTICLE 9. CONTRACT TERM

The initial term of the contract shall be for a one (1) year term, with two (2), one (1) year renewal options.

ARTICLE 10. COMPENSATION

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

The total contract amount for the Project shall not exceed *[Insert amount approved by BOC]*, which is full payment for a complete scope of work/services.

ARTICLE 11. PERSONNEL AND EQUIPMENT

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

Consultant 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 Consultant 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 sub-consultant performing services on this Project by Consultant. No changes or substitutions shall be permitted in Consultant's key personnel or sub-consultant as set forth herein without the prior written approval of the County. Requests for changes in key personnel or sub-consultants will not be unreasonably withheld by County.

ARTICLE 12. SUSPENSION OF WORK

Suspension Notice: The County may by written notice to the Consultant, 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 Consultant 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 Consultant will immediately resume performance under this Agreement as required in the notice.

ARTICLE 13. 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 **Facilities and Transportation Services Department**. The representative shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Consultant. The Consultant 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. Pending any final decision of a dispute hereunder, Consultant shall proceed diligently with performance of the Agreement and in accordance with the decision of the **Facilities and Transportation Services Department** designated representative.

ARTICLE 14. TERMINATION OF AGREEMENT FOR CAUSE

- (1) Either County or Consultant 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 Consultant 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 Consultant, terminate Consultant'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 Consultant shall be required to provide all copies of finished or unfinished documents prepared by Consultant under this Agreement to the County as stated in Exhibit D, "Project Deliverables".
- (5) Consultant 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 Consultant's right to proceed with the work has been terminated, the Consultant shall be liable for any damage to the County resulting from the Consultant'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 Consultant to complete the project.

ARTICLE 15. 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 Consultant. If the Agreement is terminated for convenience by the County, as provided in this article, Consultant 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 Consultant 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 Consultant 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 16. 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 17. INDEPENDENT CONSULTANT

Consultant shall perform the services under this Agreement as an independent Consultant 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 Consultant or any of its agents or employees to be the agent, employee or representative of County.

ARTICLE 18. PROFESSIONAL RESPONSIBILITY

Consultant 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 Consultant or under the direct supervision of Consultant. All personnel engaged in the Project by Consultant 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 Consultant without the prior written consent of the County.

ARTICLE 19. COOPERATION WITH OTHER CONSULTANTS

Consultant will undertake the Project in cooperation with and in coordination with other studies, projects or related work performed for, with or by County's employees, appointed committee(s) or other Consultants. Consultant shall fully cooperate with such other related Consultants and County employees or appointed committees. Consultant shall provide within his schedule of work, time and effort to coordinate with other Consultants under contract with County. Consultant shall not commit or permit any act, which will interfere with the performance of work by any other consultant or by County employees. Consultant shall not be liable or responsible for the delays of third parties not under its control nor affiliated with the Consultant in any manner.

ARTICLE 20. ACCURACY OF WORK

Consultant shall be responsible for the accuracy of his work and shall promptly correct its errors and omissions without additional compensation. Acceptance of the work by the County will not relieve Consultant of the responsibility of subsequent corrections of any errors and the clarification of any ambiguities. Consultant shall prepare any plans, report, fieldwork, or data required by County to correct its errors or omissions. The above consultation, clarification or correction shall be made without added compensation to Consultant. Consultant shall give immediate attention to these changes so there will be a minimum of delay to others.

ARTICLE 21. REVIEW OF WORK

Authorized representatives of County may at all reasonable times review and inspect Project activities and data collected under this Agreement and amendments thereto. All reports, drawings, studies, specifications, estimates,

maps and computations prepared by or for Consultant, shall be available to authorized representatives of County for inspection and review at all reasonable times in the main office of County. Acceptance shall not relieve Consultant of its professional obligation to correct, at its expense, any of its errors in work. County may request at any time and Consultant shall produce progress prints or copies of any work as performed under this Agreement. Refusal by Consultant to submit progress reports and/or plans shall be cause for County, without any liability thereof, to withhold payment to consultant until Consultant complies with County's request in this regard. County's review recommendations shall be incorporated into the plans by Consultant.

ARTICLE 22. INDEMNIFICATION

Consultant hereby agrees to release, indemnify, defend and hold harmless Fulton County, its Commissioners, officers, employees, sub-consultants, 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 costs of judgments, settlements, court costs, attorney's fees or expenses, regardless of the outcome of any such action, proceeding, or investigation), caused by, relating to, based upon or arising out of any act or omission by Consultant, its directors, officers, employees, sub-consultants, successors, assigns or agents, or otherwise in connection (directly or indirectly) with its acceptance, or the performance, or nonperformance, of its obligations under these agreements. Such obligations shall not be construed to negate, abridge or otherwise reduce any other rights or obligations of indemnity which would otherwise exist as to any party or person as set forth in this paragraph.

Consultant obligation to protect, defend, 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 further agrees to protect, defend, indemnify and hold harmless Fulton County, its Commissioners, officers, employees, sub-consultants, 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. These indemnities shall not be limited by reason of the listing of any insurance coverage.

These indemnity provisions are for the protection of the County indemnities only and shall not establish, of themselves, any liability to third parties. The provisions of this article shall survive termination of this Agreement.

ARTICLE 23. CONFIDENTIALITY

Consultant agrees that its conclusions and any reports are for the confidential information of County and that it will not disclose its conclusions in whole or in part to any persons whatsoever, other than to submit its written documentation to County, and will only discuss the same with it or its authorized representatives, except as required under this Agreement to provide information to the public. Upon completion of this Agreement term, all documents, reports, maps, data and studies prepared by Consultant pursuant thereto and any equipment paid for by County as a result of this Agreement, shall become the property of County and be delivered to the **Facilities and Transportation Services Department**.

Articles, papers, bulletins, reports, or other materials reporting the plans, progress, analyses, or results and findings of the work conducted under this Agreement shall not be presented publicly or published without prior approval in writing of County.

It is further agreed that if any information concerning the Project, its conduct results, or data gathered or processed should be released by Consultant without prior approval from County, the release of the same shall constitute grounds for termination of this Agreement without indemnity to Consultant, but should any such information be released by County or by Consultant with such prior written approval, the same shall be regarded as Public information and no longer subject to the restrictions of this Agreement.

ARTICLE 24. OWNERSHIP OF INTELLECTUAL PROPERTY AND INFORMATION

Consultant agrees that Fulton County is the sole owner of all information, data, and materials that are developed or prepared subject to this Agreement. Consultant or any sub-consultant is not allowed to use or sell any information subject to this contract for educational, publication, profit, research or any other purpose without the written and authorized consent of the County. All electronic files used in connection to this Agreement, which are by definition, any custom software files used in connection to this Agreement, (collectively, the "Software"), shall be turned over to the County for its use after termination hereof and Consultant shall have no interest of any kind in such electronic files. Any required licenses and fees for the Software or other required materials shall be purchased and/or paid for by Consultant and registered in the name of the County, if possible. The Software as defined hereunder, specifically excludes all software, documentation, information, and materials in which Consultant has pre-existing proprietary rights and/or has otherwise been licensed to Consultant prior to this Agreement, and any upgrades, updates, modifications or enhancements thereto. Consultant agrees to provide at no cost to County any upgrades to any software used in connection with this Agreement which may be subsequently developed or upgraded for a period of three (3) years from the date of completion of the work under the Agreement, except in the case of commercial Software

licensed to the County. Any information developed for use in connection with this Agreement may be released as public domain information by the County at its sole discretion.

ARTICLE 25. COVENANT AGAINST CONTINGENT FEES

Consultant 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 Consultant for the purpose of securing business and that Consultant 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 26. INSURANCE

Consultant 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 27. PROHIBITED INTEREST

Section 27.01 Conflict of interest:

Consultant 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. Consultant further agrees that, in the performance of the Agreement, no person having any such interest shall be employed.

Section 27.02 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 28. SUBCONTRACTING

Consultant 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 29. ASSIGNABILITY

Consultant 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 Consultant without the prior expressed written consent of County shall at County's sole option terminate this Agreement without any notice to Consultant of such termination. Consultant binds itself, its successors, assigns, and legal representatives of such other party in respect to all covenants, agreements and obligations contained herein.

ARTICLE 30. 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. Consultant hereby promises to comply with all applicable "Anti-Kickback" Laws, and shall insert appropriate provisions in all subcontracts covering work under this Agreement.

ARTICLE 31. AUDITS AND INSPECTORS

At any time during normal business hours and as often as County may deem necessary, Consultant 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. Consultant's records of personnel, conditions of employment, and financial statements (hereinafter "Information") constitute trade secrets and are considered confidential and proprietary by Consultant. 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 Consultant'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 Consultant. Consultant 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. Consultant agrees that the provisions of this Article shall be included in any Agreements it may make with any sub-consultant, assignee or transferee.

ARTICLE 32. ACCOUNTING SYSTEM

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

ARTICLE 33. 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 Consultant 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 34. 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

Interim 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 Consultant shall be addressed as follows:

[Insert Consultant Representative for project]

[Insert Consultant Address]

Telephone:

Email:

Attention: **[Insert Consultant Representative for project]**

ARTICLE 35. **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 36. **EQUAL EMPLOYMENT OPPORTUNITY**

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

Section 36.01 Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin;

Section 36.02 Consultant will, in all solicitations or advertisements for employees placed by, or on behalf of, Consultant state that all qualified applicants, will receive consideration for employment without regard to race, creed, color, sex or national origin;

Section 36.03 Consultant 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 sub-consultant, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

ARTICLE 37. **FORCE MAJEURE**

Neither County nor Consultant 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 Consultant from performing its obligations hereunder in the event of riots, rebellions or legal strikes.

ARTICLE 38. OPEN RECORDS ACT

The Georgia Open Records Act, O.C.G.A. Section 50-18-70 et seq., applies to this Agreement. The Consultant acknowledges that any documents or computerized data provided to the County by the Consultant may be subject to release to the public. The Consultant also acknowledges that documents and computerized data created or held by the Consultant in relation to the Agreement may be subject to release to the public, to include documents turned over to the County. The Consultant shall cooperate with and provide assistance to the County in rapidly responding to Open Records Act requests. The Consultant shall notify the County of any Open Records Act requests no later than 24 hours following receipt of any such requests by the Consultant. The Consultant shall promptly comply with the instructions or requests of the County in relation to responding to Open Records Act requests.

ARTICLE 39. CONSULTANT'S COMPLIANCE WITH ALL ASSURANCES OR PROMISES MADE IN RESPONSE TO PROCUREMENT

Where the procurement documents do not place a degree or level of service relating to the scope of work, M/FBE participation, or any other matter relating to the services being procured, should any Consultant submit a response to the County promising to provide a certain level of service for the scope of work, M/FBE participation, or any other matter, including where such promises or assurances are greater than what is required by the procurement documents, and should this response containing these promises or assurances be accepted by the County and made a part of the Contract Documents, then the degree or level of service promised relating to the scope of work, M/FBE participation, or other matter shall be considered to be a material part of the Agreement between the Consultant and the County, such that the Consultant's failure to provide the agreed upon degree or level of service or participation shall be a material breach of the Agreement giving the County just cause to terminate the Agreement for cause, pursuant to ARTICLE 14 of the Agreement.

ARTICLE 40. INVOICING AND PAYMENT

Consultant 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 Consultant 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: Consultant shall submit all invoices in original and one (1) copy to:

[Insert User Department Representative Position for project]

[Insert User Department Address]

Atlanta, Georgia 30303

Telephone:

Email:

Attention: **[Insert User Department Representative for project]**

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

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 Consultant 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-consultants/Suppliers: The Consultant must certify in writing that all sub-consultants of the Consultant and suppliers have been promptly paid for work and materials and previous progress payments received. In the event the prime Consultant is unable to pay sub-consultants or suppliers until it has received a progress payment from Fulton County, the prime Consultant shall pay all sub-consultants 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 Consultant; Release. The acceptance by the Consultant 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 Consultant for work performed or furnished for or relating to the service for which payment was accepted, unless the Consultant 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 41. TAXES

The Consultant 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 Consultant 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 Consultant 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 Consultant 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 Consultant for payment of any tax from which it is exempt.

ARTICLE 42. PERMITS, LICENSES AND BONDS

All permits and licenses necessary for the work shall be secured and paid for by the Consultant. If any permit, license or certificate expires or is revoked, terminated, or suspended as a result of any action on the part of the Consultant, the Consultant shall not be entitled to additional compensation or time.

ARTICLE 43. NON-APPROPRIATION

This Agreement states the total obligation of the County to the Consultant 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 Consultant 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 44. WAGE CLAUSE

Consultant shall agree that in the performance of this Agreement the Consultant will comply with all lawful agreements, if any, which the Consultant 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

CONSULTANT:

[Insert Consultant COMPANY NAME]

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:

Office of the County Attorney

APPROVED AS TO CONTENT:

David Ricks, Director
Facilities and Transportation Services
Department

ADDENDA

EXHIBIT A

GENERAL CONDITIONS

EXHIBIT B

SPECIAL CONDITIONS

EXHIBIT C
SCOPE OF WORK

SCOPE OF WORK

EXHIBIT D

PROJECT DELIVERABLES

PROJECT DELIVERABLES

EXHIBIT E
COMPENSATION

COMPENSATION

The County agrees to compensate the Consultant as follows:

EXHIBIT F

PURCHASING FORMS

EXHIBIT G

OFFICE OF CONTRACT COMPLIANCE FORMS

EXHIBIT H

INSURANCE AND RISK MANAGEMENT FORMS

(1) Required Proposal Submittal Checklist

(2) Cost Proposal Form

EXHIBIT 1

The following submittals shall be completed and submitted with each proposal (see table below "Required Proposal Submittal Check List."). Please check to make sure that the required submittals are in the envelope before it is sealed. Failure to submit all required submittals may deem your proposal non-responsive.

Submit one (1) Original proposal and five (5) CD's as required in Section 3.1.2 of the RFP.

Item #	Required Proposal Submittal Check List	Check (√)
1	One (1) Proposal marked " Original ", five (5) CD's	
2	*Form E: Georgia Security and Immigration Contractor Affidavit(s) and Agreements <i>Note: If prime contractor is a joint venture, partnership, LLC, each member of the entity must submit an affidavit</i>	
3	*Form F: Georgia Security and Immigration Subcontractor Affidavit (s)	
4	Technical Proposal	
5	Cost Proposal (submitted in a separate sealed envelope)	
6	Financial Information (submitted in a separate sealed envelope)	
7	Acknowledgement of each Addendum	
8	Executive Summary Technical Approach/Detailed Work Plan Project Team Qualifications/Qualifications of Key Personnel Availability of Key Personnel Local Preference Service Disabled Veterans Preference Cost Relevant Project Experience Proposer Financial Information Disclosure Form and Questionnaire	
9	Purchasing Forms Form A: Certificate Regarding Debarment Form B: Non-Collusion Affidavit of Bidder/Offer or Form C: Certificate of Acceptance of Request Proposal requirements Form D: Disclosure Form & Questionnaire Form E: Georgia Security and Immigration Contractor Affidavit/Agreement Form F: Georgia Security and Immigration Subcontractor Affidavit Form G: Professional License Form H: Local Preference Affidavit of Bidder/Offeror Form I: Service Disabled Veteran Preference Affidavit of Bidder/Offeror	
10	Office of Contract Compliance Requirements (separate envelope) Exhibit A: Promise of Non-Discrimination Exhibit B: Employment Record Exhibit C: Schedule of Intended Subcontractor Utilization Exhibit D: Letter of Intent to Perform as Subcontractor Exhibit E: Declaration Regarding Subcontractor Practices	

EXHIBIT 1

	Exhibit F: Joint Venture Disclosure Affidavit Exhibit G: Prime Contractor/Subcontractor Utilization Report Equal Business Opportunity Plan (EBO Plan) Exhibit H – First Source Jobs Program Information Form 1 Exhibit H – First Source Jobs Program Agreement Form 2	
	Evidence of Insurability, proposer must submit one (1) of the following: Letter from insurance carrier Certificate of Insurance An umbrella policy in excess of required limits for this project	
	Verify that Bidder/Proposer is registered w/Georgia Secretary of State and attach a copy of print out for each	
	Verify Georgia Utility License Number and attach a copy of print out for each Bidder/Proposer (If applicable)	
	Verify Professional License and attach a copy of the print out for each Bidder/Proposer (If applicable)	

EXHIBIT 2

Proposers are to submit one (1) original and five (5) copies of the sealed cost proposals shall be furnished in a separate package from the technical proposals. The envelope/package **must** be clearly marked on the outside.

- a. Cost proposals shall be completed and submitted on Cost Proposal – Schedule of Fees within this RFP.
- b. The detailed cost proposal shall show the positions and hourly rates for all employees that may be assigned to the work. Hourly rates shall include labor unit costs, multipliers, overhead, and profit.
- c. Following opening of the cost proposals, the County may require clarifications associated with scope and cost assumptions. Clarifications shall be provided by the Proposer within twenty-four hours of written request.
- d. Cost proposals may not be withdrawn, modified, or cancelled for ninety (90) calendar days after the date of submittal. Each respondent agrees to these conditions in submitting its proposal.
- e. This cost proposal will be the basis of cost for individual standby task proposals. The selected firms shall provide a cost proposal prior to program development for each project assigned based upon these rates.
- f. A firm should only fill in hourly rates for positions they can actually provide. If a firm does not provide a position or multiple positions under a Group then the firm is encouraged to contact the Fulton County Department of Contract Compliance to consider and pursue teaming opportunities with Fulton County certified vendors.

EXHIBIT 2

SCHEDULE OF FEES

This form shall be completed and submitted as the cost proposal. The complete Cost Proposal is to be submitted separately from the Technical Proposal in a sealed envelope.

GROUP 1 – ARCHITECTURAL/ENGINEERING TEAM SERVICES:

Position Hourly Rate (Incl. OH&P)

ARCHITECTURAL SERVICES

Principals, Licensed	\$ _____
Project Manager, Licensed	\$ _____
Project Architect, Licensed	\$ _____
Project Architect, Not Licensed	\$ _____
Interior Designer	\$ _____
Intern Architect	\$ _____
Draftsman/CADD	\$ _____
Specification Writer	\$ _____
Cost Estimator	\$ _____
Administrative /Clerical	\$ _____

CIVIL ENGINEERING SERVICES:

Principals, Registered	\$ _____
Project Engineer, Registered	\$ _____
Project Engineer, E.I.T.	\$ _____
Designer	\$ _____
Draftsman/CADD	\$ _____
Administrative /Clerical	\$ _____

Section 9 – Exhibits Standby Professional Services for Facilities Related Design, Engineering and Assessments Architectural & Engineering Team Services Request for Proposals

STRUCTURAL ENGINEERING SERVICES:

Principals, Registered	\$ _____
Project Engineer, Registered	\$ _____
Project Engineer, E.I.T.	\$ _____
Designer	\$ _____
Draftsman/CADD	\$ _____
Administrative /Clerical	\$ _____

MECHANICAL ENGINEERING SERVICES:

Principal, Registered	\$ _____
Project Engineer, Registered	\$ _____
Project Engineer, E.I.T.	\$ _____
Designer	\$ _____
Draftsman/CADD	\$ _____
Administrative /Clerical	\$ _____

EXHIBIT 2

ELECTRICAL ENGINEERING SERVICES:

Principals, Registered	\$ _____
Project Engineer, Registered	\$ _____
Project Engineer, E.I.T.	\$ _____
Designer	\$ _____
Draftsman/CADD	\$ _____
Administrative /Clerical	\$ _____

PLUMBING ENGINEERING SERVICES:

Principals, Registered	\$ _____
Project Engineer, Registered	\$ _____
Project Engineer, E.I.T.	\$ _____
Designer	\$ _____
Draftsman/CADD	\$ _____
Administrative /Clerical	\$ _____

Section 10

**SPECIAL CONDITIONS FOR AMERICAN RECOVERY AND
REINVESTMENT ACT (ARRA) PROJECTS**

The special conditions set forth in this section shall be incorporated in and deemed part of the Bid and the Contract, as indicated.

3.1 ACKNOWLEDGEMENT OF FEDERAL FUNDING

The Contractor agrees that any publication (written, visual or sound) but excluding press releases, newsletters and issue analyses, issued by the Contractor describing programs or projects funded in whole or in part with federal funds under this Agreement, shall contain the following acknowledgement:

"Acknowledgement: This project is funded in whole or in part by funds made available through the American Recovery and Reinvestment Act (ARRA)."

Fulton County Government ("County"), as a recipient of American Recovery and Reinvestment Act ("Act") funds, is legally obligated to meet accountability and reporting requirements under the Act. The County or the federal funding source may also identify additional requirements or other changes in requirements. Such requirements may be in statute, regulation, policy or procedure.

3.2 REPORTING

All sub-recipients and their partners, contractors and/or vendors are responsible for reporting pursuant to Section 1512 of the American Recovery and Reinvestment Act of 2009. The County, as a prime recipient of Recovery Act funds, must comply with the Recovery Act's extensive reporting requirements, including quarterly financial and programmatic reporting. The County will require quarterly reports from its sub-recipients in order to fulfill its obligation. The sub-recipient receiving Recovery Act funds may expect that a standard form(s) and/or reporting mechanism will be available to streamline the process. The sub-recipient agrees to provide the County all reports, documentation, or other information, as may be required to meet reporting obligations under the Recovery Act. The sub-recipient's receipt of funds is contingent on meeting the Section 1512 reporting requirements.

Additional instructions and guidance regarding the required reporting will be provided as they become available. For planning purposes, however, sub-recipients receiving Recovery Act funds should be aware of the current Recovery Act section 1512(c) requirements.

Sub-recipient Reports: Not later than five days after the end of each calendar quarter (January 5, April 5, July 5, and October 5, etc., throughout the contract period), each

sub-recipient that received recovery funds from a Federal agency shall submit a report to the County via email that contains:

- Financial data
- Sub-recipient (and if applicable, vendor) FTEs: jobs created or retained reported as single number; jobs directly funded by Recovery Act.
- Project activity milestones (based on sub-recipient scope of work)

3.3 SITE VISITS

The County and the Federal agency's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems to provide technical assistance, if required. Grantee must provide, and must require its sub-awardee to provide reasonable access to facilities, office space, resources, and safety and convenience of the government representatives in the performance of their duties.

All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

3.4 LAWS

The Contractor shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended, including, but not limited to:

United States Laws, Regulations and Circulars (Federal)

A. American Recovery and Reinvestment Act (ARRA) of 2009

B. Audits:

Office of Management and Budget (OMB) Revised Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations."

Labor and Safety Standards:

Drug-Free Workplace Act of 1988, 41 USC 701 et seq.

Federal Fair Labor Standards Act, 29 U.S.C. 201 et seq.

Work Hours and Safety Act of 1962, 40 U.S.C. 327-330 and Department of Labor Regulations, 29 CFR Part 5

C. Laws against Discrimination which includes but are limited to:

Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin;

Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;

Age Discrimination Act of 1975, as amended (42 U.S.C.6101-07), which prohibits discrimination on the basis of age;

Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, **relating** to nondiscrimination on the basis of drug abuse;

Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L.91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

§§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C.§§290-dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;

Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;

Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and

The requirements of any other nondiscrimination statute(s) which may apply to the application.

D. Other:

Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases;

Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds;

Davis-Bacon Act (40 U.S.C. §276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements;

Any other requirements required in the Assurance attached as Exhibit 3; and

Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

Special Condition 1 – Buy American Preferences

The following provisions shall be incorporated in and deemed part of the RFP:

- (a) The American Recovery and Reinvestment Act (ARRA) of 2009, states that no funds appropriated for a project for public infrastructure or public works, as defined in the Buy American Act, unless all of the iron, steel, and manufactured goods used in the project is produced in the United States. The following terms apply:
1. Steel and manufactured products. As used in this clause, steel and manufactured products include (i) steel produced in the United States or (ii) a manufactured product produced in the United States, if the cost of its components mined, produced or manufactured in the United States exceeds 60 percent of the cost of all its components and final assembly has taken place in the United States. Components of foreign origin of the same class or kind as the products referred to in subparagraphs 1.2. (i) or (ii) shall be treated as domestic.
 2. Components. As used in this clause, components means those articles, materials, and supplies incorporated directly into steel and manufactured products.
 3. Cost of Components. This means the costs for production of the components, exclusive of final assembly labor costs.
- (b) The successful bidder will be required to assure that only domestic steel and manufactured products will be used by the CONTRACTOR, subcontractors, materialmen and suppliers in the performance of this contract. The Federal agency involved may waive these requirements in the following instances:
1. That the domestic materials are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;
 2. That the Federal agency has determined, that domestic preference would be inconsistent with the public interest; or
 3. That inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

Special Condition 2 – Civil Rights Act of 1964, Title VI (49 CFR Part 21)

The following provisions shall be incorporated in and deemed part of the Contract:

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

1. **Compliance with Regulations.** The CONTRACTOR shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination.** The CONTRACTOR, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the CONTRACTOR for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONTRACTOR of the CONTRACTOR's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports.** The CONTRACTOR shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Agency to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, the CONTRACTOR shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance.** In the event of the CONTRACTOR's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to the CONTRACTOR under the contract until the CONTRACTOR complies, and/or
 - b. Cancellation, termination, or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions.** The CONTRACTOR shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The CONTRACTOR shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONTRACTOR may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

Special Condition 3 – Lobbying and Influencing Federal Employees (49 CFR Part 20)

The following provisions shall be incorporated in and deemed part of the Contract:

- (1) No Federal appropriated funds shall be paid, by or on behalf of the CONTRACTOR, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.

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

Special Condition 4 – Davis Bacon Requirements (29 CFR Part 5)

The following provisions shall be incorporated in and deemed part of the Contract:

1. Minimum Wages

- (i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the CONTRACTOR and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the CONTRACTOR and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

- (ii) (A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
 - (2) The classification is utilized in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the CONTRACTOR and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting

officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the CONTRACTOR, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the CONTRACTOR shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (iv) If the CONTRACTOR does not make payments to a trustee or other third person, the CONTRACTOR may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the CONTRACTOR, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the CONTRACTOR to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the CONTRACTOR under this contract or any other Federal contract with the same prime CONTRACTOR, or any other Federally-assisted contract subject to David-Bacon prevailing wage requirements, which is held by the same prime CONTRACTOR, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the CONTRACTOR or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the CONTRACTOR, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records

(i) Payrolls and basic records relating thereto shall be maintained by the CONTRACTOR during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the CONTRACTOR shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. CONTRACTORS employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The CONTRACTOR shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph 5.5(a)(3)(i) above. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime CONTRACTOR is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the CONTRACTOR or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (1) That the payroll for the payroll period contains the information required to be maintained under paragraph (3)(i) above and that such information is correct and complete;
- (2) That each laborer and mechanic (including each helper, apprentice and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the CONTRACTOR or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

- (iii) The CONTRACTOR or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the CONTRACTOR or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the CONTRACTOR, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees

- (i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the CONTRACTOR as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a CONTRACTOR is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the CONTRACTOR's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the CONTRACTOR will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior

approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the CONTRACTOR will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance With Copeland Act Requirements.

The CONTRACTOR shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a CONTRACTOR and a subcontractor as provided in 29 CFR 5.12.

8. Compliance With Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this clause include disputes between the CONTRACTOR (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

- (i) By entering into this contract, the CONTRACTOR certifies that neither it (nor he or she) nor any person or firm who has an interest in the CONTRACTOR's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

Special Condition 5 – Equal Employment Opportunity

The following provisions shall be incorporated in and deemed part of the Contract:

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

1. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
3. The CONTRACTOR will send to each labor union or representative of workers with which s/he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedure authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provision, including sanctions for noncompliance: *Provided, however,* that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering

agency the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

Special Condition 6 – Standard Federal Equal Employment Opportunity Construction Contract Specifications (41 CFR Part 60.4.3)

The following provisions shall be incorporated in and deemed part of both the RFP and the Contract:

1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
 - d. "Minority" includes:
 - (1) Black (all) persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the CONTRACTOR, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the CONTRACTOR is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. CONTRACTORS shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each CONTRACTOR or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other CONTRACTORS or subcontractors toward a goal in an approved Plan does not excuse any covered CONTRACTOR's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The CONTRACTOR shall implement the specific affirmative action standards provided in paragraphs 18.7a through 18.7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of

employment and training of minority and female utilization the CONTRACTOR should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction CONTRACTORS performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The CONTRACTOR is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the CONTRACTOR has a collective bargaining agreement to refer either minorities or women shall excuse the CONTRACTOR's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the CONTRACTOR during the training period and the CONTRACTOR shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The CONTRACTOR shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the CONTRACTOR's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The CONTRACTOR shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the CONTRACTOR's employees are assigned to work. The CONTRACTOR, where possible, will assign two or more women to each construction project. The CONTRACTOR shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the CONTRACTOR's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the CONTRACTOR or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the CONTRACTOR by the union or, if referred, not employed by the CONTRACTOR, this shall be documented in the file with the reason therefore along with whatever additional actions the CONTRACTOR may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the CONTRACTOR has a collective bargaining agreement has not referred to the CONTRACTOR a minority person or female sent by the CONTRACTOR, or when

the CONTRACTOR has other information that the union referral process has impeded the CONTRACTOR's efforts to meet its obligations.

- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the CONTRACTOR's employment needs, especially those programs funded or approved by the Department of Labor. The CONTRACTOR shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the CONTRACTOR's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the CONTRACTOR in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the CONTRACTOR's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the CONTRACTOR's EEO policy with other CONTRACTORS and subcontractors with whom the CONTRACTOR does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the CONTRACTOR's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the CONTRACTOR shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a CONTRACTOR's workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

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- m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the CONTRACTOR's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction CONTRACTORS and suppliers, including circulation of solicitations to minority and female CONTRACTOR associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the CONTRACTOR's EEO policies and affirmative action obligations.
8. CONTRACTORS are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (18.7a through 18.7p). The efforts of a CONTRACTOR association, joint CONTRACTOR union, CONTRACTOR community, or other similar groups of which the CONTRACTOR is a member and participant, may be asserted as fulfilling any one or more of its obligations under 18.7a through 18.7p of these specifications provided that the CONTRACTOR actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the CONTRACTOR's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the CONTRACTOR. The obligation to comply, however, is the CONTRACTOR's and failure of such a group to fulfill an obligation shall not be a defense for the CONTRACTOR's noncompliance.
 9. A single goal for minorities and a separate single goal for women have been established. The CONTRACTOR, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the CONTRACTOR has achieved its goals for women generally,) the CONTRACTOR may be in violation of the Executive Order if a specific minority group of women is underutilized.
 10. The CONTRACTOR shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
 11. The CONTRACTOR shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
 12. The CONTRACTOR shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any CONTRACTOR who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
 13. The CONTRACTOR, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in

paragraph 18.7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the CONTRACTOR fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The CONTRACTOR shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, CONTRACTORS shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

Special Condition 7 – Termination of Contract (49 CFR Part 18.36)

The following provisions shall be incorporated in and deemed part of the Contract:

- a. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- b. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- c. If the termination is due to failure to fulfill the CONTRACTOR's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the CONTRACTOR shall be liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR had not so failed, the termination shall be deemed to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause.
- e. The rights and remedies of the sponsor provided in this clause are in addition to any

Special Condition 8 – Contract Workhours and Safety Standards Act Requirements (29 CFR Part 5)

The following provisions shall be incorporated in and deemed part of the Contract:

1. Overtime Requirements.

No CONTRACTOR or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such CONTRACTOR and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same prime CONTRACTOR, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4. Subcontractors.

The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.