

**XPRESS PARK AND RIDE GROUNDS MAINTENANCE CONTRACT**  
**ATL Contract No. 24-000**

**THIS XPRESS PARK AND RIDE GROUNDS MAINTENANCE CONTRACT** is made and entered into as of July 1, 2023 (the "Effective Date"), by and between the ATLANTA-REGION TRANSIT LINK AUTHORITY, a body corporate and politic and an instrumentality and public corporation of the State of Georgia (the "ATL"), and **Insert Consultant's Full Legal Name**, (the "Contractor"). ATL and Contractor may be referred to individually, as "Party" or collectively, as "Parties."

**WHEREAS**, ATL desires to secure a qualified and experienced firm to perform to perform professional grounds maintenance services at certain Xpress Park and Ride lots as more fully described in ATL RFP No. 24-000 and any addenda thereto and any documents referenced therein (collectively, the "RFP"), and the Contractor's Proposal and any documents referenced therein; and

**WHEREAS**, Contractor has represented to ATL that it is experienced and qualified and willing to provide all of the expertise needed to successfully provide the work and services more fully described in the RFP (collectively, the "Services"); and

**WHEREAS**, ATL has the authority to make such contracts as the legitimate and necessary purposes of ATL require pursuant to O.C.G.A. § 50-39-11; and

**WHEREAS**, ATL has relied upon such representations and selected the Contractor to furnish the Services; and

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, agree as follows:

1. **RECITALS.** The recitals set forth above are true and correct and are incorporated into this Contract.
2. **DEFINITIONS.** Certain capitalized terms used herein shall have the meanings assigned to them as set forth in **Exhibit A** to this Contract. Any other capitalized term not specifically defined in this Contract will have the same meanings assigned in the RFP to that term.
3. **INCLUSION AND PRIORITY OF DOCUMENTS.** The Scope of Services, which is incorporated herein by reference as **Exhibit B**, the RFP, which is incorporated herein by reference as **Exhibit C**, and the Contractor's Proposal (and any documents referenced therein) submitted in response to the RFP, which is incorporated herein by reference as **Exhibit D** (collectively, the "Contractor's Proposal"), are integral parts of the agreement between ATL and the Contractor. This Contract, including all Amendments, documents, and exhibits referenced in the Contract (collectively, the "Contract"), the RFP and the Contractor's Proposal shall be collectively referred to as the "Contract Documents."

In the event of a conflict or ambiguity among parts of the Contract Documents, the following order of precedence applies:

1. Any formally executed Amendments to the Contract,
2. The Contract,
3. The Scope of Services, and
4. The RFP, and
5. The Contractor's Proposal.

In the event of any conflict, ambiguity or inconsistency between or among any Contract Documents having the same order of precedence, the more stringent standard will prevail. However, where a lower priority document contains additional or supplemental details, those additional details shall take precedence except where they irreconcilably conflict with a higher priority document.

If the Contractor's Proposal includes statement, offers, terms, concepts or designs that can reasonably be interpreted as offers to (i) provide higher quality items than otherwise required by the other Contract  
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Documents or (ii) perform services or meet standards in addition to or better than those otherwise required, or (iii) otherwise contains terms or designs which are more advantageous to ATL than the other requirements of the other Contract Documents, as reasonably determined by ATL, then Contractor's obligations under the Contract Documents include compliance with all such statements, offers, terms, concepts and designs.

**4. CONTRACT TERM AND RENEWAL.** This Contract shall be effective upon the Effective Date and shall expire three (3) years thereafter, ending at 11:59 pm (the "Initial Term"). ATL may elect to renew this Contract on the same terms and conditions for up to one (1) renewal period with a term of up to two (2) years (a "Renewal Term"). Renewal of this Contract shall be at the sole discretion of ATL. The Initial Term and any Renewal Term may be referred to collectively as the "Term." Any extension of the Term of the Contract must be in writing and signed by the Parties to the Contract.

**5. CONTRACTOR RESPONSIBILITIES.**

**5.1. General.** In performing the Services, the Contractor shall use the industry standard degree of care and skill ordinarily exercised by skilled professionals in the field under similar conditions. The Services to be performed by the Contractor under this Contract shall encompass and include all detail work, services, materials, and equipment, supplies necessary to provide Services in accordance with the ordinary practices in the industry.

**5.2. Personnel.** The Contractor shall employ only persons qualified as applicable in the appropriate category of Services to be performed. Contractor warrants and represents that all personnel assigned to perform under this Contract shall be employees or authorized subcontractors of Contractor, shall be licensed in the State (if required by Law) and shall be fully qualified to perform the Services. Contractor shall include a similar provision in any agreement with any subcontractor and/or supplier selected to perform and/or to provide any Services.

5.2.1. Right to Remove. ATL shall have the absolute right to require the Contractor to remove an employee from performing under this Contract based pm cause or other reasonable standard. In the event of such removal, Contractor will replace the employee with the appropriate personnel within the time specified by ATL.

5.2.2. Contractor Project Manager. Contractor shall assign a Project Manager who shall interface with ATL ("Contractor Project Manager"), and any other person or persons authorized by ATL to represent ATL in some or all dealings with the Contractor ("ATL-designated Representatives").

**5.3. Accuracy of Services.** The Contractor shall be responsible for the accuracy of the Services and shall promptly correct its errors and omissions without additional compensation from ATL. Acceptance of the Services by ATL will not relieve the Contractor of the responsibility for subsequent correction of errors, the clarification of any ambiguities, or for the costs associated with any additional work, which may include costs caused by negligent errors in, or negligent omissions from, the plans prepared by the Contractor.

**5.4. Safety.** The Contractor shall take all reasonable precautions in the performance of the Services and shall cause its employees, agents and sub-consultants to do the same. The Contractor alone shall be reasonable for the safety, efficiency, and adequacy of the Services, employees, agents and sub-consultants, and for any damage that may result from their actions or inactions.

**6. PROJECT MANAGEMENT.** ATL shall identify a project manager ("ATL Project Manager") who shall act as and be ATL's representative between ATL and the Contractor.

**7. SUBCONTRACTING AND ASSIGNMENT.**

**7.1. Assignment.** Contractor shall not assign, delegate, sublet or transfer this Contract or any rights under or interest in this Contract without the prior written consent of ATL, which shall not be unreasonably withheld.

**7.2. Subcontracting.** Nothing contained herein shall prevent Contractor from employing independent professional associates or subcontractors as Contractor may deem appropriate to assist in the performance of Services hereunder. However, Contractor shall not subcontract Services to subcontractors that are different from those subcontractors listed in the Contractor Proposal, without obtaining ATL's prior written approval, which approval is within ATL's sole discretion. ATL's reserve the right to review all subcontracts prepared in connection with the Contract, and Contractor agrees that it shall submit to ATL any proposed subcontract documents together with subcontractors cost estimates for review and written concurrence of ATL no later than five (5) Business Days in advance of execution. Any contract between the Contractor and any subcontractors shall comply with all pertinent provisions to subcontractor's responsibilities in connection with the Services of this Contract. ATL's approval of any assignment, sublet, or transfer shall not release the Contractor of any obligation under this Contract or as otherwise required by Law. All subcontracts in the amount of \$10,000.00 or more shall include the provisions set forth in this Contract.

ATL shall have the right to require the Contractor to remove a subcontractor of Contractor from performing under this Contract, if in ATL's sole opinion, such sub consultant (a) is not performing its portion of the Services satisfactorily, (b) is failing to cooperate as required in the Contract Documents, (c) is posing a security risk to any project or to ATL's business, (d) is otherwise breaching a term of the Contract Documents that is applicable to that portion of the Services being performed by the subcontractor, or (e) presence on a project is not in the best interest of ATL. In the event of removal, Contractor will replace the subcontractor with a suitable replacement within the time specified by ATL.

**7.3. Contractor Remains Responsible.** If Contractor subcontracts any of the Services to be performed under this Contract, Contractor shall be as fully responsible to ATL for the acts, errors, or omissions of Contractor's subcontractor and of the persons employed by them as Contractor is for the acts and omissions of persons directly employed by Contractor. Contractor shall be obligated to assist ATL in the enforcement of any rights that ATL has against such subcontractor consultant. Notwithstanding any subcontract or agreement with any subcontractor, Contractor shall be fully responsible to ATL for all of the Services required pursuant to the Contract Documents. Notwithstanding any provision to the contrary, Contractor shall be responsible to ATL for all terms, conditions, liabilities, and responsibilities under the Contract Documents regardless of whether Contractor or its subcontractor, suppliers, independent consultants, agents or assigns perform any aspect of the Services.

**7.4. Mandatory Terms in Subcontracts.** Nothing contained in this Contract shall create any contractual relationship between any sub consultant of Contractor and ATL. Any subcontract entered into as a result of this Contract, shall contain all applicable provisions of the Contract Documents that in any way relate to an item of Services that any sub consultant will perform and/or furnish, as well as provisions pertaining to, records, and payment methods. The Contractor shall further ensure that all subcontracts entered into with its sub consultant grant ATL all of the rights and privileges of such subcontract, including but not limited to (so long as ATL is not in default of its obligations under this Contract) ATL's right to secure materials or services from the sub consultant that might be a part of the sub consultant's Services, in the event Contractor defaults under the Contract Documents.

**7.5. Prompt Payments to Subcontractor.** Contractor represents and agrees that for the duration of any Term it shall make timely payments for Services properly performed to a subcontractor hereunder and Contractor shall indemnify and hold harmless ATL and the State for any liability for payment claimed by a subcontractor. All subcontract agreements between Contractor and subcontractor shall be in writing and shall contain all of the federal requirements and pertinent provisions of this Contract.

**7.6. Failure to Comply.** Any assignments or subcontracts made in violation of **Sections 7.1 (Assignment)** and/or **7.2 (Subcontracting)** shall be null and void.

**8. RELATIONSHIP OF THE PARTIES.** Each Party, in the performance of this Contract, shall be acting in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other Party. The employees, agents, partners or Contractors of one Party shall not be deemed or construed to be the employees, agents, partners or Contractors of the other Party for any purposes. Neither Party shall assume any liability of any type on behalf of the other Party or any of such other Party's employees, agents, partners or Contractors. The Parties expressly understand and agree that Contractor is an independent Contractor of ATL in all manner and respect and that no Party to this Contract is authorized to bind the other Party to any liability or obligation or to represent in any way that it has such authority. Contractor shall be solely responsible for all payments to its subcontractor, agents, consultants, suppliers, employees, partners or any other parties with which it does business including, but not limited to, paying all benefits, taxes and insurance, including workmen's compensation insurance, for Contractor's employees.

**9. EMPLOYMENT OF AUTHORITY'S PERSONNEL.** Contractor shall not employ any person or persons in the employ of ATL for any work required by the terms of this Contract without the written permission of ATL except as may otherwise be provided for herein.

**10. PROCESS.** ATL will order from the Contractor, all or a portion of the Services as such Services, in the ATL's sole opinion, is needed. The expected Project deliverables are set forth in **Exhibit B (Scope of Services)**. Contractor will perform the Services in accordance with the schedule approved by ATL.

**11. PAYMENT.**

**11.1. Method of Compensation.** For satisfactory performance of the Services, ATL hereby agrees to compensate the Contractor in accordance with the prices set forth in **Exhibit C (Contractor's Proposal)**, attached hereto and incorporated herein. Contractor's Rates in **Exhibit C** include taxes, insurance, bonds, benefits, ancillary costs, overhead, profit and any other monetary component to which Contractor is entitled. The ATL will not reimburse Contractor for any additional costs or expenses with the exception of payment for pre-approved As-Needed services requested by the ATL. Compensation for As-Needed services will be at the hourly rate specified in **Exhibit C** for that Service. ATL may request such As-Needed Services be performed at any time during the Term of the Contract.

**11.2. Maximum Not To Exceed.** The maximum not to exceed amount for all Services performed under this Contract during the Initial Term is \$ **Insert maximum not to exceed amount**.

**11.3. Trust Funds.** All payments made by ATL to Contractor for the Services under the Contract Documents shall be held in trust by the Contractor for the purpose of paying its employees, agents, assigns, subcontractors and suppliers who provided any part of the Services.

**11.4. Overpayment.** In the event an overpayment is made to Contractor under this Contract, Contractor shall immediately refund to ATL the full amount of any such erroneous payment or overpayment following Contractor's written notice of such erroneous payment or overpayment, as issued by ATL. If Contractor fails to refund the erroneous payment or overpayment within a thirty (30) Day period, ATL shall be entitled to interest at one percent per month on the amount not repaid from the date of overpayment.

**11.5. Reduction of Payment for Non-Conforming Services.** If any defined action, duty or service or other item of Services required by the Contract Documents is not performed by the Contractor in accordance with the requirements of the Contract Documents, the value of such action, duty or service or other item of Services will be determined by ATL and deducted from any invoice claiming such items for payment. If the Services or part thereof has been completed and is not in conformance with the Contract Documents, the Contractor will be notified and given the opportunity to correct any

deficiencies within a time certain. Payment (for the non-conforming Services) will be withheld by ATL from any invoice until such time as the Services is corrected in accordance with the Contract Documents.

**11.6. Withholding Payments.** ATL reserves the right to withhold payment or payments in whole or in part, and to continue to withhold any such payments for Services not completed or not completed in accordance with the Contract Documents. ATL may withhold all or part of any amounts due Contractor to protect ATL from a loss, including but not limited to, losses caused by the following: (a) failure or alleged failure of Contractor to make proper payments to its subcontractors for Services; (b) failure of Contractor to carry out/or remedy the Services in accordance with the Contract; or (c) Contractor's breach of warranties.

Any and all such payment previously withheld shall be released and paid to Contractor promptly when the Services is subsequently performed in accordance with the Contract Documents.

**11.7. Payment not Acceptance.** Payment or use of any Services or portions thereof by ATL shall not constitute an acceptance of any Services not performed in accordance with the Contract Documents.

**11.8. Net 30 Days.** Provided all the conditions in this **Section 11** have been met to ATL's satisfaction, and Contractor is not otherwise in breach of this Contract, ATL's agrees to pay Contractor in accordance with ATL's normal processes and procedures for all undisputed amounts within thirty (30) Days of the later of a review, if any, undertaken by ATL pursuant to **Section 17.1 (Review of Services)** or ATL's receipt of a valid invoice.

**11.9. Payment to Subcontractors.** All payments made by ATL to Contractor for the Services under the Contract Documents shall be held in trust by the Contractor for the purpose of paying its employees, subcontractors and suppliers who provided any part of the Services. Contractor must pay its subcontractors and suppliers for satisfactory performance of their contracts within five (5) business days from receipt of payment from ATL.

**11.10. Invoicing.** The Contractor shall deliver to ATL an invoice on a monthly basis, as applicable, by the tenth (10) Day of the month following the month in which Services was performed. Each invoice shall only include a request for payment for a deliverable or other item of the Services that was completed and accepted in the previous month as those requirements are set forth in the Contract Documents for such deliverable or other item of Services. The Contractor shall submit separate invoices as each Service is completed. The Contractor may submit invoices for partial payment of Services in accordance with the requirements of **Exhibit D (Contractor's Proposal)**. The Contractor agrees to provide an accompanying monthly Project progress report in a format acceptable to ATL which will outline in written and, if requested, graphic form the various phases and the order of performance of the Services in sufficient detail so that the progress of the Services can easily be evaluated. Partial payments to the Contractor shall correspond to the progress of Services achieved. ATL will be entitled at all times to be advised at its request as to the status of Services being done by the Contractor and the details thereof.

Contractor shall also provide the following with each invoice: all other documents, records, correspondence and deliverables which Contractor and other persons performing the Services are required to provide ATL under the Contract.

All invoices shall reference ATL Contract No. 24-000. The applicable invoice addresses for ATL is as follows:

**ATLANTA-REGION TRANSIT LINK AUTHORITY**  
Attn: Accounts Payable  
245 Peachtree Center Avenue, NE, Suite 2200

- 11.11. End of Fiscal Year.** No later than the second Friday of July of each year, Contractor must submit to ATL outstanding invoices or progress reports for Services successfully completed or supplied during the period of July 1st – June 30th of that year. Progress reports shall include a description of the Services that has been successfully completed or supplied and an estimated cost for the Services. Failure to adhere to this requirement may result in non-payment for the Services. ATL reserves its right to dispute part or all of an invoice and to withhold payment for any Services that was not successfully completed or supplied.
- 11.12. Late Fees.** ATL shall not be liable for late fees, collection fees, attorney's fees, interest, or other fees incurred by the Contractor as a result of non-payment or a delay in payment by ATL.
- 11.13. Right of Set Off.** ATL may retain or set off any amount owed to it by Contractor.
- 11.14. Full Compensation.** All Services performed by the Contractor in meeting the requirements of the Contract Documents shall be paid as set forth herein, which shall constitute full compensation for the Services, including but not limited to: (a) the cost of all insurance and bond premiums, home office, job site and other overhead, and profit relating to Contractor's performance of its obligations under this Contract; (b) the cost of performance of each and every portion of the Services (including all costs of all Services provided by subcontractors and suppliers); (c) the cost of obtaining all governmental approvals and all costs of compliance with and maintenance of such governmental approvals; (d) all risk of inflation, currency risk, interest and other costs of funds associated with the partial payment schedule for the Services as provided herein; and (e) payment of any taxes, duties, permits and other fees and/or royalties imposed with respect to the Services and any equipment, materials, supplies, documentation, labor or services included therein.
- 11.15. Overtime.** Unless otherwise authorized in writing by ATL, no premium pay or overtime will be considered compensable and will not be paid by ATL.
- 11.16. DBE Compliance.** As of the Effective Date of this Contract, ATL has not established contract goals for DBE participation in this Contract. Contractor is still encouraged to employ reasonable means to obtain DBE participation and to retain records in accordance with these DBE specifications, if applicable.

Where Contractor has indicated its intent to perform some or part of the Services as a Disadvantaged Business Enterprise "DBE" Subcontractor in the Contractor Proposal, Contractor shall be required to submit to ATL a completed notice of intent to perform as a DBE subcontractor, as set forth in **Exhibit F - ATL Notice of Intent to Perform as Subcontractor Form**. Thereafter, for any invoice submitted to ATL, Contractor shall comply with and complete the necessary DBE Subcontractor Payment Report, where applicable, and as set forth in **Exhibit G (ATL DBE Subcontractor Payment Report)**. Upon conclusion of the Contract, Contractor shall submit the DBE/SBE contract close-out form and any applicable documentation, as set forth more fully in **Exhibit H - DBE/SBE Utilization Contract Close-Out Report**.

## **12. INDEMNIFICATION.**

- 12.1. General Liability.** The Contractor shall be responsible to ATL for those costs, expenses, liabilities, allegations, claims, bodily injuries, including death, or damage to real or personal property, arising out of or resulting from any wrongful and/or negligent act or omission, the breach of contract, the failure to perform, or other default regarding the Services by the Contractor, its employees, agents, or any of its subcontractors or others working at the direction of the Contractor or on its behalf.

**12.2. General Indemnification.** Contractor hereby agrees to indemnify and hold harmless ATL, the State of Georgia and its departments, other authorities, agencies and instrumentalities and all of their respective officers, members, employees and directors (hereinafter collectively referred to as the "Indemnitees") from and against any and all claims, demands, liabilities, losses, costs or expenses, including reasonable attorneys' fees, due to liability to a third party or parties, for any loss due to bodily injury (including death), personal injury, and property damage arising out of or resulting from the negligent performance of this Contract or any negligent act, error or omission on the part of the Contractor, its agents, employees, subcontractors or others working at the direction of Contractor or on its behalf, or due to any breach of this Contract by the Contractor, or due to the application or violation of any pertinent Federal, State or local law, rule or regulation by the Contractor or its sub consultants.

This indemnification extends to the successors and assigns of the Contractor. This indemnification obligation survives the termination of the Contract and the dissolution or, to the extent allowed by law, the bankruptcy of the Contractor. If and to the extent such damage or loss (including costs and expenses) as covered by this indemnification is paid by the State Tort Claims Trust Fund, the State Authority Liability Trust Fund, the State Employee Broad Form Liability Fund, the State Insurance and Hazard Reserve Fund, and other self-insured funds (all such funds hereinafter collectively referred to as the "Funds") established and maintained by the State of Georgia Department of Administrative Services Risk Management Division (hereinafter "DOAS") the Contractor agrees to reimburse the Funds for such monies paid out by the Funds.

12.2.1. DOAS. Risk Management will endeavor to notify affected insurers of claims made against the State that fall within this indemnity. In the event of litigation, ATL will request the Attorney General to endeavor to keep the Contractor and its general liability insurer as named on the insurance certificate informed regarding the claims and settlement.

**12.3. Disclaimer of Consequential Damages.** Notwithstanding any provision to the contrary, in no event shall any Party be liable to another Party for any incidental, consequential, special, exemplary or indirect damages, lost business profits or lost data arising out of or in any way related to the Contract Documents.

**12.4. Obligations Not Mutually Exclusive.** The Contractor's obligations under this **Section 12** are in addition to Contractor's obligations under **Section 13 (Insurance)**.

## **13. INSURANCE.**

**13.1. Insurance Certificates.** The Contractor shall procure the insurance coverages identified below at the Contractor's expense and shall furnish ATL an insurance certificate listing ATL as the certificate holder and an endorsement listing ATL as an additional insured for the acts or omissions of Contractor in relation to the commercial general liability and business automobile liability insurance. Such additional insured requirement may be met on a blanket additional insured basis. Evidence of insurance coverages shall be provided on the standard ACORD form acceptable to ATL and the Georgia Office of the Insurance Commissioner.

The insurance certificate must provide the following:

- (a) name and address of authorized agent;
- (b) name and address of insured;
- (c) name of insurance company(ies);
- (d) description of policies;
- (e) policy number(s);
- (f) policy period(s);
- (g) limits of liability;
- (h) name and address of ATL as certificate holder;

- (i) Project Name and Number;
- (j) signature of authorized agent; and
- (k) telephone number of authorized agent.
- (l) mandatory thirty (30) Day notice of cancellation or non-renewal (except ten (10) Days for non-payment).

**13.2. Insurer Qualifications, Insurance Requirements.** Each of the insurance coverages required below (i) shall be issued by a company licensed by the Insurance Commissioner to transact the business of insurance in the State of Georgia for the applicable line of insurance, and (ii) shall be an insurer (or, for qualified self-insureds or group self-insureds, a specific excess insurer providing statutory limits) with a Best Policyholders Rating of "A-" or better and with a financial size rating of Class V or larger. Each such policy shall contain the following provisions:

- 13.2.1. Written Notice of Changes. Contractor shall notify ATL upon the cancellation of any insurance affecting this Contract. Such notice shall be valid only as to the Project as shall have been designated by Project Number and Name in said notice. Contractor shall provide written notice of any material changes to the policy to ATL within three (3) Business Days of Contractor's receipt of notice of any changes or proposed changes from the insurance company;
- 13.2.2. Separation of Insureds. The policy shall not be subject to invalidation as to any insured by reason of any act or omission of another insured or any of its officers, employees, agents or other representatives;
- 13.2.3. Representation by Georgia Attorney General. Each Insurer is hereby notified that the statutory requirement that the Attorney General of Georgia shall represent and defend the Indemnities remains in full force and effect and is not waived by issuance of any policy of insurance. In the event of litigation, any settlement on behalf of the indemnities must be expressly approved by the Attorney General. The Contractor and its insurance carrier may retain, but are not obligated to retain, counsel to assist with the defense of the Indemnities, in which case there will be mutual cooperation between the Attorney General and such counsel. See O.C.G.A. § 45-15-12;
- 13.2.4. Insurance Premiums and Deductibles. The Contractor shall pay for all insurance premiums, deductibles and self-insured retention.
- 13.2.5. Termination of Obligation to Insure. Unless otherwise expressly provided to the contrary, the obligation to insure as provided herein shall not terminate until the expiration or other termination of the Contract.
- 13.2.6. Failure of Insurers. The Contractor is responsible for any delay resulting from the failure of his insurance carriers to furnish proof of proper coverage in the prescribed form.
- 13.2.7. Ongoing Coverage. Contractor is responsible for tracking insurance coverages for itself and its subcontractors, for ensuring that coverages remain in force throughout the duration of the Contract, and for demonstrating to ATL ongoing compliance with this Section 13.
- 13.2.8. General. The Contractor's obligations under this Section are in addition to Contractor's obligations under Section 12 (Indemnification).
- 13.2.9. Waiver of Subrogation. There is no waiver of subrogation rights by either party with respect to insurance.

**13.3. Required Insurance Coverages.** The Contractor also agrees to purchase insurance and have the authorized agent state on the insurance certificate that the Contractor has purchased the following types of insurance coverages, consistent with the policies and requirements of O.C.G.A. § 50-21-37. The minimum required coverages and liability limits are as follows:



- 13.3.1. Workers' Compensation Insurance and Employer's Liability. Statutory coverage shall be maintained for Worker's Compensation as required by the laws of the State of Georgia.
- 13.3.2. Commercial General Liability Insurance. The Contractor shall provide Commercial General Liability Insurance of at least \$1,000,000.00 per Occurrence and \$2,000,000.00 General Aggregate.
- 13.3.3. Commercial Business Automobile Liability Insurance. If the Contractor will use or provide for the use of motor vehicles in performing the Services as set forth in the Contract Documents, then Contractor shall provide Commercial Business Automobile Liability Insurance that shall include coverage for bodily injury and property damage arising from the operation of any owned, non-owned, or hired automobile. The Commercial Business Automobile Liability Insurance Policy shall provide not less than \$1,000,000 Combined Single Limits for each occurrence.
- 13.3.4. Commercial Umbrella Liability Insurance. The Contractor shall provide a Commercial Umbrella Liability Insurance to provide excess coverage above the Commercial General Liability, Commercial Business Automobile Liability and the Workers' Compensation and Employers' Liability to satisfy the minimum limits set forth herein. The umbrella coverage shall follow form with the Umbrella limits required as follows:
- \$2,000,000 per Occurrence/\$2,000,000 Aggregate
- 13.3.5. Disposition of Insurance Documents. One original certificate of insurance with all endorsements attached must be deposited with ATL for each insurance policy required.

**14. ADDITIONAL CONTRACTOR RESPONSIBILITIES AND REPRESENTATIONS.** The Contractor represents to ATL and agrees that throughout the Term that:

- 14.1. Licenses.** The Contractor has and will maintain and keep in full force and effect during the term of the Contract all required licenses, certifications, and permits necessary to perform all or part of the Services; and
- 14.2. Organization.** The Contractor is authorized to do business in the State of Georgia;
- 14.3. Authorization by Contractor.** The Contractor has authorized the execution, delivery, and performance of this Contract;
- 14.4. Authorization of Signer.** The person signing this Contract has been duly authorized by Contractor to execute and deliver same;
- 14.5. Valid Contract.** This Contract is valid, enforceable, and legally binding obligation of the Contractor;
- 14.6. Cooperation.** Contractor shall fully cooperate with ATL, the ATL-designated Representative, ATL's other consultants and vendors, and any other governing authority, in furnishing all the Services required by the Contract Documents.
- 14.7. Services/Labor.** All deliverables, documentation, Services, services and labor shall (a) conform to the performance, capabilities, accuracy, completeness, characteristics, specifications, configurations, standards, and functions required by the Contract Documents, and (b) be performed per mutually agreed schedules, and in a workmanlike manner, and in accordance with the standard of care and skill exercised by other providers of similar labor and services under similar circumstances at the time the labor and services are provided.

**15. CHANGES.**

**15.1. Allowable Changes.** Contract changes will only be allowed to address (1) variances in the original quantities tabulated pursuant to the Contract Documents, provided however, the variances are due to a change in the scope of Services or (2) variances in the scope of Services. ATL reserves the right, in its sole discretion, to add or remove Park and Ride locations to or from the scope of Services. No change in or modification, termination or discharge of the Services or any component thereof, in any form whatsoever, shall be valid or enforceable unless it is in writing and signed by ATL's Project Manager and an authorized representative of the Contractor.

**15.2. Delay and Extensions of Time.** Subject to any limitations, claims submission requirements and other conditions set forth in the Contract Documents, and provided that no relief will be available to the extent that (i) the events are within Contractor's or subcontractor's control, or are due to any wrongful act, wrongful omission, negligent act or negligent omission, recklessness, willful misconduct, breach of Contract or Law; or (ii) the events (or the effects of such events) could have been avoided by the exercise of reasonable caution, due diligence, or other reasonable efforts by Contractor, ATL will only grant an extension of time if the Contractor is delayed in the progress of the Services and the delay is the direct result of a negligent act of ATL or an event listed in **Section 28.3 (Time of the Essence; Force Majeure)**. If and when such event occurs, then the time of completion set forth in the Contract Documents shall, unless otherwise agreed to in writing by the Parties, be extended equal to the time lost as a result of the delay. The Contractor expressly agrees that the Contractor's sole and exclusive remedy for delay shall be an extension of Contract time and that the Contractor shall not be entitled to any damages and shall make no demand for any damages. No such extension shall be made for delay occurring more than two (2) Business Days before claim thereof is made in writing to ATL. In the case of a continuing cause of delay, only one claim is necessary, but no claim for a continuing delay shall be valid unless the Contractor, within three (3) Business Days from the cessation of the delay, shall have given notice in writing to ATL, with copy to ATL, as to the amount of additional time claimed.

**15.3. Changes in Contractor Organization.** The Contractor shall notify ATL in writing within five (5) business days upon any action that changes Contractor's corporate structure, including company mergers, company acquisitions, changes in corporate names, changes in corporate officers, changes in corporate governing structure, and similar relevant information. Such notification shall identify how the change in corporate business structure will impact ATL, including payments to the Contractor, and Contractor shall identify how these impacts to ATL will be mitigated. Contractor shall immediately notify ATL of any material adverse change since the Effective Date in Contractor's financial condition, business, affairs or operations, or of the existence of any material impairment of rights or ability of Contractor to carry on as its business and operations as are currently conducted.

**16. COOPERATION.** ATL shall be entitled to full and prompt cooperation of the Contractor in all aspects of the Services. Contractor shall also fully and promptly cooperate with ATL's consultants, vendors, and other consultants and other governmental entities, all as directed by ATL.

## **17. REVIEW/AUDITS.**

**17.1. Review of Services.** ATL and its ATL-designated Representatives, may at all reasonable times have access to review and inspect the Contractor's activities and data collected under the terms of the Contract Documents. All books, documents, plans, papers, records, reports, drawings, studies, specifications, estimates, maps and computations, prepared by or for the Contractor under the terms of the Contract Documents, shall be available to ATL and its ATL-designated Representatives for inspection and review at all reasonable times in ATL's offices. Acceptance of any Services by ATL shall not relieve the Contractor of its obligation to correct, at its expense, any of its errors in the Services.

**17.2. Records Retention.** The Contractor and any sub consultants shall keep available for inspection and maintain all books, documents, papers, accounting records, and evidence pertaining to costs incurred

as a result of the performance of Services under the Contract Documents and make available at all reasonable times to ATL and the State, for a period of five (5) years after receipt of final payment. Notwithstanding the preceding sentence, if any litigation, claim, or audit arising out of, in connection with, or related to this Contract is initiated before the expiration of the five-year period, the cost records and accounts shall be retained until such litigation, claim or audit involving the records is completed. Copies of these documents and records will be furnished to ATL upon request and may be audited by ATL-designated Representatives.

**17.3. Audit.** ATL or ATL-designated Representatives may audit Contractor's books and records and perform any other review necessary in order to determine the accuracy of any Contractor invoice upon reasonable prior notice and during business hours. In the event such an audit reveals that ATL was overcharged by five (5%) percent or more during the time period covered by the audit, then Contractor shall pay for all costs and expenses incurred by ATL or ATL -designated Representatives in performing such audit.

**18. OWNERSHIP OF DOCUMENTS.** The Contractor agrees that all reports, drawings, studies, specifications, estimates, maps, computations, computer files and other data, prepared pursuant to the Contract Documents shall be delivered to, become and remain in the property of ATL upon the earlier of termination or completion of the Services. ATL shall have the right to use same without restriction or limitation and without compensation to the Contractor other than that provided for in this Contract.

## **19. TERMINATION.**

**19.1. Termination for Cause.** Upon an Event of Default as defined in **Section 23.1 (Event of Default)**, ATL may, in their sole discretion, terminate this Contract, in whole or in part. Termination shall take effect on the date set forth in ATL's notice to Contractor, which shall be no less than fifteen (15) Days after the date of such notice, provided, however, that Contractor shall have an opportunity to cure from receipt of such notice for any such alleged Event of Default, or to submit a plan for cure acceptable to ATL, except in the case of financial improprieties, fraud or other criminal activity on Contractor's part in which case, termination shall be effective immediately upon notification. Upon such termination, ATL will have the right to appropriate or use any or all Services (whether or not complete) as ATL determines. Upon such termination ATL shall not be required to pay Contractor any amounts for Services performed prior to the date of termination for which payment may be due and owing but not yet paid ("Remaining Payment"). In the event the aggregate of ATL's expenses incurred or anticipated to be incurred as a result of Contractor's breach are less than the Remaining Payment, ATL shall remit such differential to the Contractor. In the event ATL's expenses incurred or anticipated to be incurred as a result of Contractor's breach exceed the Remaining Payment, including any costs of ATL incurred by any delay (or from any reason attributable to the delay) then Contractor shall within five (5) Days written notice from ATL, make payment of the differential to ATL. In addition to the rights and remedies in this **Section**, ATL shall have all other rights and remedies against Contractor which are available at law or in equity. The Contractor acknowledges that the remedy set forth in this **Section** is the Contractor's sole and exclusive remedy against ATL for termination for cause and Contractor hereby waives all other rights and remedies it may have against ATL, whether at law or in equity.

**19.2. Termination for Convenience.** ATL may terminate this Contract, in whole or in part, for convenience and in writing at least thirty (30) Days before the effective date of such termination. Contractor will be paid for all Services performed in accordance with the terms and conditions of this Contract prior to termination, less amounts due ATL pursuant to the Contract Documents. ATL will compensate Contractor for partially completed tasks based on a signed statement of completion to be submitted by the Contractor which shall itemize each task element and state in detail the Services that have been completed and what work remains to be done. All Services performed shall remain the property of ATL. ATL shall not be responsible to Contractor for, and Contractor hereby waives any right to any other costs, fees and expenses of any nature whatsoever including, but not limited to, administrative fees, legal fees, costs to set up or shut down operations, salary, overhead, or any other cost or

expense, whether direct or indirect, whether foreseen or unforeseen. The Contractor acknowledges that the remedy set forth in this **Section** is the Contractor's sole and exclusive remedy against ATL for termination for convenience and Contractor hereby waives all other rights and remedies it may have against ATL, whether at law or in equity.

**19.3. Termination in General.** Under no circumstances shall a proper termination by ATL (with or without cause) constitute a default by ATL. In the event of a termination for convenience or for cause ATL shall notify Contractor of such action and with instructions as to the effective date of termination or suspension, in accordance with the time frames set forth in this **Section**. In the event of a termination for convenience or for cause, Contractor shall comply with the terms and conditions of **Section 24.2 (Transition)**. Contractor shall not be paid for, and Contractor hereby waives any claim to special, indirect, consequential or undocumented expenses, lost profit, overhead or any other type of payment (except payment for Services actually performed) regardless of the reason for termination. Contractor shall not be liable for any errors or omissions contained in deliverables which are incomplete as a result of suspension or termination where Contractor is deprived of the opportunity to complete Contractor's Services.

**19.4. Compliance with Contract.** Contractor shall comply with all of the terms and conditions of the Contract Documents including, but not limited to, the provisions of **Section 24 (Cooperation, Transition of Services, and End of Contract Responsibilities)**, in the event ATL exercises any of its rights under this **Section 19**.

**20. RESERVED.**

**21. DISPUTE RESOLUTION.** In the event of any dispute whatsoever arising out of or relating to the Contract Documents, the Services, the disputing Party must furnish a written notice to the other Party, setting forth in detail the dispute. Such notice must be addressed to ATL's Project Manager and the Contractor Project Manager, as applicable. Within five (5) Days after the receipt of the notice by the receiving party, ATL Project Manager and the Contractor Project Manager shall meet in ATL's offices to attempt to resolve the dispute. If ATL's Project Manager and the Contractor Project Manager cannot resolve the dispute or otherwise agree to extend the time within which to attempt to resolve the dispute then, within five (5) Days after the date of written notice by either individual to the Executive Director of ATL and Contractor's Managing Principal, the Executive Director of ATL and Contractor's Managing Principal shall meet in ATL offices to attempt to resolve the dispute. If the Executive Director of ATL and Contractor's Managing Principal cannot resolve the dispute or otherwise agree to extend the time within which to attempt to resolve the dispute, then either Party may pursue those remedies only as allowed under this Contract.

**22. RESERVED.**

**23. EVENT OF DEFAULT; DAMAGES/REMEDIES.**

**23.1. Event of Default.** The following shall constitute an Event of Default on the part of the Contractor:

**23.1.1.** The Contractor withheld, disrupted or delayed Services due to non-payment by ATL, if such withholding of payment is allowed under **Section 11 (Payment)** and the continuance thereof for a period of three (3) Business Days after notice is given to the Contractor by ATL;

**23.1.2.** The Contractor has failed to deliver the Services or a component thereof on a timely basis, except to the extent of an excusable delay in accordance with **Section 15.2 (Delays and Extensions of Time)** and the continuance thereof for a period of five (5) Business Days after notice is given to the Contractor by ATL;

- 23.1.3. The performance of the Contractor is not satisfactory, and the continuance thereof for a period of ten (10) Days after notice is given to the Contractor by ATL;
- 23.1.4. The Contractor becomes insolvent (other than pursuant to a case, proceeding, or other action pursuant to subparagraph (a)(xii)), or has assigned the proceeds of the Contract for the benefit of the Contractor's creditors (except any assignment of proceeds as collateral for any loan), or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or the Contractor's property or affairs have voluntarily been put in the hands of a receiver; or any case, proceeding or other action against the Contractor is commenced in bankruptcy, or seeking reorganization, liquidation or any relief under any bankruptcy, insolvency, reorganization, liquidation, dissolution or other similar act or law of any jurisdiction, which case, proceeding or other action remains undismissed, undischarged or unbonded for a period of thirty (30) Days;
- 23.1.5. The Contractor failed to provide "adequate assurances" within five (5) Days of ATL's notice, when, in the opinion of ATL, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform any of its obligations under this Contract;
- 23.1.6. The suspension or revocation of any license, permit, or registration necessary for the performance of the Contractor's obligations under this Contract and the continuance thereof for a period of ten (10) Days after notice is given to the Contractor by ATL;
- 23.1.7. The Contractor suspended or failed to proceed with any part of the Services and the continuance thereof for a period of seven (7) Days after notice is given to the Contractor by ATL;
- 23.1.8. The default in the performance or observance of any of the Contractor's other obligations under the Contract Documents and the continuance thereof for a period of ten (10) Days after notice is given to the Contractor by ATL.

**23.2. ATL Damages/Remedies.** Upon the occurrence of an Event of Default, ATL may, in addition to and without prejudice to all other contractual remedies and/or remedies allowed at law or in equity, proceed to take any or all of the following actions:

- 23.2.1. Withhold any money then due and/or thereafter due to Contractor;
- 23.2.2. Perform or cause to be performed for the account of Contractor any contractual obligation, the performance of which the Contractor is in default, or make any payment for which the Contractor is in default. The Contractor shall pay to ATL upon demand any amount paid or incurred by ATL in the performance of such obligation. Any amounts which have been paid or incurred by reason of failure of the Contractor to comply with any obligation or provision of this Contract shall bear interest at the Default Rate, which shall be defined as the Prime Rate plus five (5) percent, but in no case higher than the highest rate permitted by law, from the date of payment by ATL until paid by the Contractor ("Default Rate"); and
- 23.2.3. Obtain the Services, or a portion thereof, from a third party under substantially similar terms of this Contract, and recover from Contractor all additional costs and expenses paid or incurred by ATL as a result of the Event of Default, plus all additional costs paid or incurred by ATL to obtain the replacement Services as set forth in this Section.

## **24. COOPERATION, TRANSITION OF SERVICES, AND END OF CONTRACT RESPONSIBILITIES.**

**24.1. Cooperation.** In the event that ATL enters into any agreement at any time with any other consultant(s) for work related to the Services, Contractor agrees to cooperate fully with such other consultant(s) in

order to facilitate the performance of the Services and/or provision of work by such other consultant(s) and to refrain from any activity which would interfere with performance of the Services and/or provision of work by such other consultant(s).

**24.2. Transition.** Upon expiration or earlier termination of this Contract, Contractor shall accomplish a complete transition of the Services from Contractor to ATL, to the ATL-designated Representative or to any replacement provider designated by ATL, without any interruption of, or adverse impact on the Services any component thereof or any other Services provided by third parties. Contractor shall cooperate fully with ATL, ATL-designated Representative, or such replacement provider and promptly take all steps required to assist in effecting a complete transition. All Services related to such transition shall be performed at no additional cost beyond what would be paid for the Services hereunder and any other work for which there are no labor or equipment rates set forth in **Exhibit D (Contractor's Proposal)** shall be set forth in a writing signed by both Parties.

**24.3. End of Contract.** The Contractor shall perform the end of Contract responsibilities as reasonably specified by ATL upon the expiration or earlier termination of this Contract.

**24.4. Failure to Comply.** The Parties acknowledge and understand that Contractor's failure to comply with the terms and conditions as stated hereinabove shall adversely affect ATL and result in monetary loss to ATL. ATL shall assess, audit, and certify to the Contractor ATL's monetary losses resulting from the Contractor's failure to comply with the provisions of this Section.

**25. CONFLICTS OF INTEREST.** The Contractor represents and warrants that it, its principals, its employees, and all others in close association or otherwise affiliated with it, have no conflict of interest or of time, directly or indirectly, that would prevent timely performance of the Services in a manner that is free of appearance or fact of impropriety. The Contractor promises to allow no such conflict to arise and promises to disclose such a conflict in the event that, nevertheless, one develops. Such disclosure must be made in writing to the ATL Project Manager no later than five (5) Days after such conflict arises.

**26. MANDATORY FTA CLAUSES.** Contractor shall comply with the requirements set forth in **Exhibit E (Mandatory FTA Clauses)**, attached hereto and incorporated herein. To the extent there is any conflict between the Contract Documents and Exhibit E, the terms of **Exhibit E** shall control.

**27. EXHIBITS.** The following Exhibits are attached hereto and incorporated into and made a part of the Contract Documents:

**Exhibit A** - Definitions

**Exhibit B** - Scope of Services

**Exhibit C** - RFP

**Exhibit D** - Contractor's Proposal

**Exhibit E** - Mandatory FTA Clauses

**Exhibit F** - ATL Notice of Intent to Perform as Subcontractor Form

**Exhibit G** - ATL DBE Subcontractor Payment Report

**Exhibit H** - DBE/SBE Utilization Contract Close-Out Report

**28. MISCELLANEOUS.**

**28.1. Compliance with Laws.** The Contractor shall perform its obligations hereunder in accordance with all applicable federal, state, and local government laws, rules, regulations, orders, ordinances and approvals, including but not limited to procedures and requirements relating to labor standards, compliance with Americans with Disabilities Act, anti-solicitation, O.C.G.A. §50-5-82, O.C.G.A. §13-10-91, immigration (O.C.G.A. §13-10-91 et seq.), and auditing and reporting provisions, now or hereafter in effect, and any rules required by any federal grant funding payment by ATL.

- 28.1.1. **Federal Changes.** Contractor shall at all times comply with all applicable FTA regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in the Master Contract between Purchaser (ATL) and FTA, as they may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to so comply shall constitute a material breach of this Contract.
- 28.2. Parties Bound.** This Contract will bind the respective heirs, executors, administrators, legal representatives, successors, and assigns of each Party.
- 28.3. Time of the Essence; Force Majeure.** Time is of the essence for all Services performed pursuant to the Contract Documents. The Contractor shall perform its responsibilities for the Services in accordance with the schedule set forth herein. However, neither Party shall be liable to the other Party for any delay or failure of performance due to fires or other casualties, acts of God, unusual weather conditions, strikes or labor disputes, war, or any cause beyond the reasonable control of either Party. Contractor's exclusive remedies for force majeure are set forth in **Section 15.2 (Delays and Extensions of Time)**.
- 28.4. Non-disparagement.** Each Party agrees not to make any statement, written or oral, to any third party which disparages or criticizes the other Party or the other Party's respective officers, directors, employees, agents or management and business practices, in each case in connection with the performance or administration of the Services, this Contract, any other work/relationship between the other Parties under separate agreement, or any matter related thereto. The provisions of this Section shall not apply to any truthful statement required to be made by either Party, or such Party's officers, directors or agents, as the case may be, in any legal proceeding or governmental or regulatory investigation or to any internal discussions or communications between the Parties.
- 28.5. Trading with State Employees.** The Contractor represents that the provisions of O.C.G.A. §§45-10-20 et seq. have not and will not be violated under the terms of this Contract.
- 28.6. Registered Lobbyists.** Contractor represents and warrants that the Contractor and its lobbyists, if any, are in compliance with the Lobbyist Registration Requirements in accordance with the Georgia Procurement Manual, incorporated herein by reference.
- 28.7. Governing Law and Venue.** This Contract is a Georgia agreement made under the laws of the State. It will be enforced according to Georgia law without regard to its conflict of laws rules or any other rules directing referral to foreign law or forums. Any action related to this Contract in any way shall be brought exclusively in the Superior Court of Fulton County, Georgia, and each Party hereby consents to the jurisdiction and venue of such Court and the appropriate appellate courts therefrom in any such action and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the personal jurisdiction and venue of such court and to any claim of inconvenient forum. Each Party hereby agrees to execute an acknowledgment of service of process at the request of the other Party in any litigation related to this Contract. In the event that a Party does not provide an acknowledgment of service as agreed, each Party consents to service of process at that Party's address set forth in **Section 28.8 (Notices)**.
- 28.8. Notices.** All notices, notifications, approvals, acceptances, requests, permission, waivers or other communications (excluding invoices that will be handled as set forth in **Section 11 (Payment Terms)**) hereunder shall be in writing and transmitted via hand delivery, overnight courier, or certified mail to the Parties at the respective addresses set forth below. Invoices may also be sent by U.S. Mail, postage prepaid. Notices will be deemed to have been given when received, unless otherwise noted in the Contract. If a Party refuses to accept delivery or fails to take delivery, notice shall be deemed given on the day delivery is first attempted. Notice may also be given by email, provided a hard copy of the notice is also transmitted via hand delivery, overnight courier, or certified mail to the Parties at the respective addresses set forth below.

**For ATL:**

The Atlanta-region Transit Link Authority  
Attn: Transit Program Manager  
245 Peachtree Center Ave. NE, Ste. 2200  
Atlanta, GA 30303  
Phone: (404)893-3024  
Email: [dhowell@srta.ga.gov](mailto:dhowell@srta.ga.gov)

**For Contractor:**

Attn:

Phone:

Email:

- 28.9. Taxes.** The Contractor will pay all taxes lawfully imposed upon it that may arise with respect to this Contract.
- 28.10. Safety and Health/No Discrimination.** Contractor shall at all times comply with and require that all of its subcontractors performing Services under this Contract comply with all applicable federal and State occupational safety and health standards, rules, regulations and federal and State orders. Contractor shall not and shall cause any sub-consultant to not discriminate on the basis of race, color, national origin, sex, age, religion or handicap in the performance of the Services under the Contract Documents. Contractor shall carry out and shall cause its subcontractors to carry out, applicable requirements of 49 CFR Part 26. Contractor shall include this provision in every subcontract pertaining to the Services.
- 28.11. Publicity.** Contractor shall not issue a press release or otherwise publicize the Services or this Contract without the prior written permission of ATL's Government and External Affairs Director.
- 28.12. Drug-Free Workplace.** Contractor certifies that (i) a drug free workplace will be provided for the Contractor's employees during the performance of this Contract, and (ii) it will secure from any sub-consultant, agent or assign hired to work in a drug free workplace the following written certification: "As part of the subcontracting agreement with (Contractor's Name), (Subcontractor's Name), certifies to the Contractor that a drug free workplace will be provided for the subcontractor's employees during the performance of this Contract pursuant to paragraph 7 of subsection B of Code Section 50-24-3." Contractor may be suspended, terminated, or debarred if it is determined that (i) the Contractor has made false certification hereinabove, or (ii) the Contractor has violated such certification by failure to carry out the requirements of O.C.G.A. § 50-24-3.
- 28.13. Remedies Cumulative.** The rights and remedies of ATL under this Contract are cumulative of one another and with those otherwise provided by law or in equity.
- 28.14. Waiver and Severability.** The waiver by ATL of a breach of any provision of this Contract shall not be deemed to be a waiver of such provision on any subsequent breach of the same or any other provision of this Contract. Any such waiver must be in writing in order to be effective, and no such waiver shall establish a course of performance between the Parties contradictory to the terms hereof. All provisions of this Contract are severable, and the unenforceability or invalidity of any of the provisions will not affect the validity or enforceability of the remaining provisions. The remaining provisions will be construed so as to carry out the full intention of the Parties.
- 28.15. No Third-Party Beneficiaries.** Nothing contained in the Contract Documents shall be construed as conferring upon or giving to any person, other than the Parties hereto, any rights or benefits under or by reason of this Contract.
- 28.15.1. Federal Government not a Party. Notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to either ATL, Contractor, or any other party (whether or not a party to the Contract) pertaining to any matter resulting from the underlying Contract.



28.15.2. Subcontract Language. Contractor agrees to include the language in **Section 28.15.1** in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the sub-consultant who will be subject to its provisions.

**28.16. Captions.** The captions in this Contract are solely for convenience and will not affect the interpretation of any terms of this Contract.

**28.17. Counterparts.** The Parties may execute this Contract in counterparts.

**28.18. Construction of Contract.** In the event this Contract must be interpreted by a court of competent jurisdiction as defined in **Section 28.7 (Governing Law and Venue)**, the Parties expressly agree that this is a negotiated Contract that will not be construed against one Party over the other because such Party drafted the Contract.

**28.19. Sexual Harassment Prevention.** The State of Georgia promotes respect and dignity and does not tolerate sexual harassment in the workplace. The State is committed to providing a workplace and environment free from sexual harassment for its employees and for all persons who interact with state government. All State of Georgia employees are expected and required to interact with all persons including other employees, contractors, and customers in a professional manner that contributes to a respectful work environment free from sexual harassment. Furthermore, the State of Georgia maintains an expectation that its contractors and their employees and subcontractors will interact with entities of the State of Georgia, their customers, and other contractors of the State in a professional manner that contributes to a respectful work environment free from sexual harassment.

Pursuant to the State of Georgia's Statewide Sexual Harassment Prevention Policy (the "Policy"), all contractors who are regularly on State premises or who regularly interact with State personnel must complete sexual harassment prevention training on an annual basis.

If the Contractor, including its employees and subcontractors, violates the Policy, including but not limited to engaging in sexual harassment and/or retaliation, the Contractor may be subject to appropriate corrective action. Such action may include, but is not limited to, notification to the employer, removal from State premises, restricted access to State premises and/or personnel, termination of contract, and/or other corrective action(s) deemed necessary by the State.

28.19.1. If Contractor is an individual who is regularly on State premises or who will regularly interact with State personnel, Contractor certifies that:

- Contractor has received, reviewed, and agreed to comply with the State of Georgia's Statewide Sexual Harassment Prevention Policy located at <http://doas.ga.gov/human-resources-administration/board-rules-policy-and-compliance/jointly-issued-statewide-policies/sexual-harassment-prevention-policy>;
- Contractor has completed sexual harassment prevention training in the last year and will continue to do so on an annual basis; or will complete the Georgia Department of Administrative Services' sexual harassment prevention training located at this direct link <https://www.youtube.com/embed/NjVt0DDnc2s?rel=0> prior to accessing State premises and prior to interacting with State employees; and on an annual basis thereafter; and
- Upon request by the State, Contractor will provide documentation substantiating the completion of sexual harassment training.

28.19.2. If Contractor has employees and subcontractors that are regularly on State premises or who will regularly interact with State personnel, Contractor certifies that:

- Contractor will ensure that such employees and subcontractors have received, reviewed, and agreed to comply with the State of Georgia's Statewide Sexual Harassment Prevention Policy located at <http://doas.ga.gov/human-resources-administration/board-rules-policy-and-compliance/jointly-issued-statewide-policies/sexual-harassment-prevention-policy>;
- Contractor has provided sexual harassment prevention training in the last year to such employees and subcontractors and will continue to do so on an annual basis; or Contractor will ensure that such employees and subcontractors complete the Georgia Department of Administrative Services' sexual harassment prevention training located at this direct link <https://www.youtube.com/embed/NjVt0DDnc2s?rel=0> prior to accessing State premises and prior to interacting with State employees; and on an annual basis thereafter; and
- Upon request of the State, Contractor will provide documentation substantiating such employees and subcontractors' acknowledgment of the State of Georgia's Statewide Sexual Harassment Prevention Policy and annual completion of sexual harassment prevention training.

**28.20. Survival.** In addition to those provisions, which by their terms would naturally survive termination of the Contract, **Sections 3 (Inclusion and Priority of Documents), 7 (Subcontracting and Assignment), 11 (Payment), 12 (Indemnification), 13 (Insurance), 14 (Additional Contractor Responsibilities and Representations), 16 (Cooperation), 17 (Review/Audits), 18 (Ownership of Documents), 19 (Termination), 21 (Dispute Resolution), 23 (Event of Default; Damages/Remedies), 24 (Cooperation, Transition of Services and End of Contract Responsibilities), 25 (Conflicts of Interest), 26 (Mandatory FTA Clauses) and 28 (Miscellaneous)** shall survive the termination for whatever reason of this Contract.

**28.21. Non-exclusivity.** This Contract is entered into solely for the convenience of ATL and the State, and in no way precludes ATL from obtaining like goods or services from other consultants at ATL's sole discretion.

**28.22. Entire Contract; Amendment.** This Contract contains the entire agreement between the Parties with respect to its subject matter and supersedes all other prior and contemporaneous contracts and understandings between the Parties, whether oral or written. ATL shall not be bound by any terms and conditions included in any packaging, invoice, catalog, brochure, technical data sheet, or other document prepared by the Contractor which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein. No Amendment to this Contract shall be valid unless made in writing and signed by both Parties.

**IN WITNESS WHEREOF**, the Parties have signed, sealed and delivered this Contract effective as of the Effective Date.

Atlanta-region Transit Link Authority

(Contractor)

By: \_\_\_\_\_  
Jannine Miller  
Executive Director

By: \_\_\_\_\_  
(Name)  
(Title)

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

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

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

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

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

## EXHIBIT A DEFINITIONS

**Amendment** means a document that is properly signed by both Parties that changes the terms and conditions of this Contract.

**ATL** shall mean the Atlanta-region Transit Link Authority.

**ATL-designated Representatives** shall have the meaning assigned to it in **Section 5.2.2 (Contractor Project Manager)** of the Contract.

**ATL Project Manager** shall have the meaning assigned to it in **Section 6 (Project Management)** of the Contract.

**Business Day(s)** means Monday through Friday excluding State recognized holidays.

**Contractor** shall have the same meaning assigned to it in the preamble of the Contract.

**Contractor Project Manager** shall mean the Contractor's designated representative who has been assigned to interface with ATL.

**Contractor's Proposal** shall mean those documents contained herein as Exhibit D.

**Contract** shall have the same meaning assigned to it in **Section 3 (Inclusion and Priority of Documents)** of the Contract.

**Contract Documents** shall have the meaning assigned to it in **Section 3 (Inclusion and Priority of Documents)** of the Contract.

**Day(s)** shall mean calendar days unless otherwise specified in the Contract as a Business Day.

**Default Rate** shall have the same meaning assigned to it in **Section 23.2 (ATL Damages/Remedies)** of the Contract.

**DOAS** shall have the meaning assigned to it in **Section 12.2 (General Indemnification)** of the Contract.

**Effective Date** shall have the meaning assigned to it in the preamble of the Contract.

**Event of Default** shall have the meaning assigned to it in **Section 23.1 (Event of Default; Damages/Remedies)** of the Contract.

**FTA** shall mean Federal Transit Administration of the U.S. Department of Transportation. When used to designate a person, FTA shall mean the Administrator or his duly authorized representative.

**Funds** shall have the meaning assigned to it in **Section 12.2 (General Indemnification)** of the Contract.

**Indemnitees** shall have the meaning assigned to it in **Section 12.2 (General Indemnification)** of the Contract.

**Initial Term** shall have the meaning assigned to it in **Section 4 (Contract Term and Renewal)** of the Contract.

**Law** shall include all local, state, and federal, including FTA regulations and rules.

**O.C.G.A** shall mean the Official Code of Georgia Annotated.

**Project** shall mean the scope of Services for accomplishing the Services as specified in the Contract Documents.

**Renewal Term** shall have the meaning assigned to it in **Section 4 (Contract Term and Renewal)** of the Contract.

**Remaining Payment** shall have the meaning assigned to it in **Section 19.1 (Termination for Cause)** of the Contract.

**RFP** shall have the same meaning assigned to it in the preamble of the Contract.

**Services** shall have the meaning assigned to it in the Recitals of the Contract.

**State** shall mean the state of Georgia.

**Term** shall have the meaning assigned to it in **Section 4 (Contract Term and Renewal)** of the Contract.

Wherever the word "*including*" "*includes*" or "*include*" is used in this Contract, it shall be deemed to be followed by the words "*without limitation.*"

**EXHIBIT B**  
**Scope of Services**  
**Begins on Next Page**

**EXHIBIT C**  
**RFP**

Incorporated By Reference Herein

**EXHIBIT D**  
**CONTRACTOR'S PROPOSAL**  
**Begins on Next Page**



**EXHIBIT G  
MANDATORY FTA CLAUSES**

**1. NO GOVERNMENT OBLIGATION TO THIRD PARTIES.**

- 1.1 ATL and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to ATL, Contractor, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the underlying Contract.
- 1.2 Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**2. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.**

- 2.1 Contractor acknowledges that the provisions of the Project Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Project Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Contract. Upon execution of the underlying Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Project Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
- 2.2 Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under ATL of 49 U.S.C. Chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on Contractor, to the extent the Federal Government deems appropriate.
- 2.3 Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**3. ACCESS TO RECORDS.**

- 3.1 Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
- 3.2 Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

- 3.3 Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- 3.4 Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

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

**5. CIVIL RIGHTS AND EQUAL OPPORTUNITY.**

ATL is an Equal Opportunity Employer. As such, ATL agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, ATL agrees to comply with the requirements of 49 U.S.C. § 5323(h)(3) by not using any Federal assistance awarded by FTA to support procurement using exclusionary or discriminatory specifications.

Under this Contractor, Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

- 5.1 Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, or disability. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- 5.2 Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying Contract:
  - 5.2.1 *Race, Color, Religion, National Origin, Sex* - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., and Executive Order 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.
  - 5.2.2 *Age* - In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-

634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

5.2.3 *Disabilities* - In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

## **6. DISADVANTAGED BUSINESS ENTERPRISES (DBE).**

- 6.1 This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. All Proposers qualifying under the subject solicitation are encouraged to submit proposals. The requirements of this solicitation apply for all Proposers, including those who qualify as a DBE. ATL's overall goal for DBE participation in federally funded contracts awarded during FFY'20-FFY'22 (October 1, 2020 and September 30, 2023) is 9.62%. There is no minimum DBE participation requirement for this Contract. However, ATL highly encourages DBE participation to meet the agency goal for this contract. Proposers with questions regarding DBE certification may contact the Issuing Officer.
- 6.2 Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as ATL deems appropriate. Each subcontract Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- 6.3 Contractor will be required to report its DBE participation obtained through race-neutral means throughout the Term of Contract.
- 6.4 Contractor is required to pay its subcontractor(s) performing work related to this Contract for satisfactory performance of that work no later than fifteen (15) calendar days after Contractor's receipt of payment for that work from ATL. In addition, Contractor may not hold retainage from its subcontractors.
- 6.5 Contractor must promptly notify ATL whenever a DBE subcontractor performing work related to this Contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of ATL.

**7. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS.** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, as may be amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any ATL requests which would cause ATL to be in violation of the FTA terms and conditions.

**8. PROMPT PAYMENT OF SUBCONTRACTORS.**

- 8.1 Contractor shall pay its subcontractors for satisfactory performance of their contracts no later than fifteen (15) calendar days from receipt of each payment received by Contractor from ATL.
- 8.2 Failure to comply with the terms and conditions of this Article shall constitute a breach of contract and further payments for any work performed may be withheld until such time as corrective action is taken. Contractor shall be responsible for any corrective action required by ATL at the time of final inspection. If Contractor fails to take corrective action, ATL reserves the right to terminate the contract.
- 8.3 Any delay or postponement of payment among Contractor and its subcontractors may take place only for good cause, with prior written approval from ATL.
- 8.4 All subcontract agreements between Contractor and subcontractors shall be in writing and shall contain all of the federal requirements and pertinent provisions of the prime contract.
- 8.5 Contractor is required to return any and all retainage payments to its subcontractors within thirty (30) calendar days after the subcontractor's work related to this Contract is satisfactorily completed. ATL discourages Contractor from withholding retainage from its subcontractors.

**9. SUSPENSION, DEBARMENT, INELIGIBILITY AND VOLUNTARY EXCLUSION.**

- 9.1 Contractor shall comply and comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:
  - a) Debarred from participation in any federally assisted Award;
  - b) Suspended from participation in any federally assisted Award;
  - c) Proposed for debarment from participation in any federally assisted Award;
  - d) Declared ineligible to participate in any federally assisted Award;
  - e) Voluntarily excluded from participation in any federally assisted Award; or
  - f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the ATL. If it is later determined by ATL that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the ATL, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

9.2 Contractor is required to comply with 2 CFR Part 180 and 2 CFR Part 1200 and must include the requirement to comply with Subpart C of 2 CFR 180 as supplemented by 2 CFR Part 1200 in any lower tier covered transaction.

**10. ENERGY CONSERVATION.** Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**11. LOBBYING.**

11.1 Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying" with their bid. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

**12. CLEAN AIR REQUIREMENTS.** Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. Contractor agrees to report each violation to ATL and understands and agrees that ATL will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

**13. CLEAN WATER REQUIREMENTS.** Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. Contractor agrees to report each violation to ATL and understands and agrees that ATL will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

**14. RECYCLED PRODUCTS.** The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

**15. FLY AMERICA.** Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their vendors are required to use U.S. Flag air carriers for U.S.

Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

**16. COVENANT AGAINST CONTINGENT FEES.** Contractor shall comply with all relevant requirements of all Federal, State, and local laws. Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, ATL shall have the right to annul this Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

**17. NATIONAL ITS CONFORMANCE CLAUSE.** To the extent applicable, Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 FR 1455 et seq., January 8, 2001, and any subsequent further implementing directives, except to the extent FTA determines otherwise in writing."

**18. ADA ACCESS.** In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**19. TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.** Pursuant to 2 CFR 200.216 the Contractor shall not procure or obtain, enter into a contract, or extend or renew a contract to procure or obtain, equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) as described in Public Law 115-232, Section 889.

- 19.1 For the purposes of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment provided by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company (or any subsidiary or affiliate of such entities).
- 19.2 Telecommunications or video surveillance services provided by such entities using such equipment.
- 19.3 Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

**20. NOTIFICATION TO FTA; DISPUTES, BREACHES, DEFAULTS AND LITIGATION.**

- 20.1 Contractor agrees that it will promptly notify the ATL, the FTA Chief Counsel, and FTA Regional Counsel in which the ATL is located of any current or prospective legal matter that may affect the Federal Government. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to

litigation or legal disagreement in any forum for any reason. Matters that may affect the federal government include, but are not limited to, the Federal Government's interest in the Award, the accompanying underlying agreement, and any amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

20.2 *Additional Notice to U.S. DOT Inspector General.* The Contractor must promptly notify the U.S. DOT Inspector General in addition to the ATL, the FTA Chief Counsel, and FTA Regional Counsel for the Region in which the ATL is located, if the Contractor has knowledge of potential fraud, waste, or abuse occurring on a project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act 32 U.S. C. § 3729, et seq., or has or may have committed a crime or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the project subject to this Contract or another agreement between the ATL and Contractor, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the ATL. It also applies to subcontractors of any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Contractor. In this paragraph, "promptly" means to refer information without delay and without change.

20.3 Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA.

**21. SOLID WASTE DISPOSAL.** Pursuant to 2 CFR 200.323, the Contractor agrees to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**EXHIBIT H  
ATL NOTICE OF INTENT TO PERFORM AS SUBCONTRACTOR FORM**



**Disadvantaged Business Enterprise  
NOTICE OF INTENT TO PERFORM**

**AS A SUBCONTRACTOR AND/OR MATERIAL SUPPLIER**

NAME OF PROJECT \_\_\_\_\_

ATL CONTRACT/SOLICITATION NUMBER \_\_\_\_\_

CHECK ONE:

Subcontractor

Subcontractor with Lower-Tier Subcontractors

(Fully complete Parts I and III)

(Fully complete Parts I, II and III)

**PART I: SUBCONTRACTOR PARTICIPATION**

1. TO: \_\_\_\_\_

(Name of Prime Contractor)

FROM: \_\_\_\_\_

(Name of Subcontractor)

2. The undersigned Subcontractor/Supplier intends to perform work with the above project as (Check one):

an individual or sole proprietorship

a partnership

a corporation

a joint venture

3. The undersigned Subcontractor/Supplier (check applicable statements):

is a Non-DBE.

has been certified as a DBE by with GDOT or MARTA.

has been certified as an SBE

NOTE: DBE firms participating in the Disadvantaged Business Enterprises (DBE) Program must have "current" certification status through the Georgia Uniform Certification Program (GUCP) prior to contract award. DBE Firms must be fully certified through our Georgia Department of Transportation ("GDOT") to be counted towards the DBE goals on this project. Evidence of DBE certification must be attached to this form.



4. The undersigned Subcontractor/Supplier is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both) and at the following price \$ \_\_\_\_\_.

**PART II: LOWER-TIER SUBCONTRACTOR PARTICIPATION**

With respect to the proposed subcontract described above, the following lower-tier subcontract(s) will be sublet and/or awarded to lower-tier subcontractor(s):

Name of Firm Receiving Lower-Tier Subcontract \_\_\_\_\_

Work to Be Performed \_\_\_\_\_

Contract Amount \$ \_\_\_\_\_

(List DBE and Non-DBE Firms) DBE (Y/N)

Subcontract \$ \_\_\_\_\_ ( )

Company \_\_\_\_\_

Address: \_\_\_\_\_ DUNS \_\_\_\_\_ CCR: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone No: \_\_\_\_\_ Insurance \_\_\_(Y/N)

Subcontract \$ \_\_\_\_\_ ( )

Company \_\_\_\_\_

Address: \_\_\_\_\_ DUNS \_\_\_\_\_ CCR: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone No: \_\_\_\_\_ Insurance \_\_\_(Y/N)

Subcontract \$ \_\_\_\_\_ ( )

Company \_\_\_\_\_

Address: \_\_\_\_\_ DUNS \_\_\_\_\_ CCR: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone No: \_\_\_\_\_ Insurance \_\_\_(Y/N)

Total amount to be subcontracted out to DBE: \$ \_\_\_\_\_

Total amount to be subcontracted out to non-DBE/SBE: \$ \_\_\_\_\_

**PART III: SIGNATURES**

\_\_\_\_\_ BY: \_\_\_\_\_ PHONE: \_\_\_\_\_

(DATE: \_\_\_\_\_)

(Name of Prime Contractor) (Signature of Authorized Representative)

\_\_\_\_\_ BY: \_\_\_\_\_ PHONE: \_\_\_\_\_

(DATE: \_\_\_\_\_)

(Name of Sub-Contractor) (Signature of Authorized Representative)

**PART IV: DBE PARTICIPATION VERIFICATION**

To be completed by ATL DBE Representative:

Total DBE Participation: Amount: \$\_\_\_\_\_ Overall %\_\_\_\_\_

Reviewed for Content and Completeness:

\_\_\_\_\_  
Compliance Manager/DBE Liaison Officer

**EXHIBIT I  
ATL DBE SUBCONTRACTOR PAYMENT REPORT FORM**



**DISADVANTAGED BUSINESS ENTERPRISE "DBE" PARTICIPATION  
SUBCONTRACTOR PAYMENT REPORT**

*To be completed by subcontractor and included in each Contractor/Contractor/Vendor's (the "Prime Contractor") Payment Request*

Subcontractor's Name: \_\_\_\_\_

Report: Month \_\_\_\_\_ Year \_\_\_\_\_

DBE Certification #: \_\_\_\_\_

Contact Person: \_\_\_\_\_

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

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

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

Subcontractor Services Provided \_\_\_\_\_

DBE Subcontract Amount: _____
Contract Begin Date: _____
Contract End Date: _____

**List all payments received from Prime Contractor in Preceding 30 Days:**

Invoice #	Subcontractor Invoice Date	Amount	Date Payment Received from Prime Contractor

Total Amount Received \$ \_\_\_\_\_

**List dates and amounts of any outstanding invoice payments due from Prime Contractor:**

Subcontractor Invoice #	Subcontractor Invoice Date	Amount

Total Dollars Unpaid \$ \_\_\_\_\_

Prime Contractor Name: \_\_\_\_\_ Contact Person: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**RETURN COMPLETED FORM AND ANY ADDITIONAL INFORMATION AS REQUIRED TO:**

**CATHY GESICK, COMPLIANCE MANAGER/DBE LIAISON OFFICER**

**Atlanta-region Transit Link Authority**

245 Peachtree Center Avenue NE, Suite 2200,  
Atlanta, GA 30303-1426

Email: [cgesick@srta.ga.gov](mailto:cgesick@srta.ga.gov)

Telephone: (404)-893-6177

**Signature of DBE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**EXHIBIT J**  
**DBE/SBE UTILIZATION CONTRACT CLOSE-OUT REPORT**



**DBE/SBE UTILIZATION CONTRACT CLOSE-OUT REPORT**

The Contractor/Contractor/Vendor must complete the DBE/SBE Utilization Contract Close-Out Report ("Close-Out Report") and submit it to the ATL Project Manager after completion of all work on the Contract. The Compliance Manager/DBE Liaison Officer will verify the information included in the report. Contractor/Contractor/Vendor may be asked for additional documentation upon ATL's review of the Close-Out Report. If you have questions regarding the preparation of this report, contact Cathy Gesick at [cgesick@srta.ga.gov](mailto:cgesick@srta.ga.gov) or (404) 893-6171.

**Part I: Summary Information**

**Contract Amount:** State the total amount of the original Contract awarded to the Contractor/Contractor/Vendor, the total amount of all approved changes to the Contract, the total amount of the final contract (i.e. the total of the original contract amount plus the amount of all approved changes), and the total amount that has actually been paid to the Contractor/Contractor/Vendor to date.

**DBE/SBE Amounts:** Report the total dollar amount and percentage of the Contract committed to DBEs as stated in the original approved Utilization Plan, the total of all approved changes to amounts committed to DBEs, and the final total dollar amount and percentage of the final Contract amount DBEs will be paid on the Contract (i.e. the total amount paid to DBEs to date).

**Part II: Contractor/Contractor Participation**

Complete Part 2 *only* if the Contractor/Contractor/Vendor is a DBE. Report the Contractor/Contractor/Vendor's own participation (total dollar amount and percentage of the contract), less any amount subcontracted, as reported in the original approved Utilization Plan, report the total dollar value of approved changes to the amount of the Contractor/Contractor/Vendor's participation, less any amount subcontracted, and report the final total of the Contractor/Contractor/Vendor's participation (total dollar amount and percentage of the contract), less any amount subcontracted.

**Part III: Subcontractor Participation**

List each subcontractor/subconsultant/supplier (including DBEs) contained in the original approved Utilization Plan. Also, list any other subcontractors/subconsultants/supplier used in the performance of the Contract. Give the complete name of each subcontractor/subconsultant/supplier and provide:

- a) the dollar amount committed to the subcontractor/subconsultant/supplier in the original Utilization Plan;
- b) the dollar amount of any approved changes to the commitment that subcontractor/subconsultant/supplier;
- c) the actual amount paid to the subcontractor/subconsultant/supplier to date; and
- d) the amount of retainage due to the subcontractor/subconsultant/supplier.

For each subcontractor/subconsultant/supplier, explain any difference in the amount contained in the original Utilization Plan and the final total. The final total is the actual amount paid to the subcontractor/subconsultant/supplier to date plus the amount of retainage due to the subcontractor/subconsultant/supplier (i.e., c + d).

If a subcontractor/subconsultant/supplier was substituted with another subcontractor/subconsultant/supplier, or if a subcontractor/subconsultant/supplier was added or deleted, attach a copy of the approval letter from ATL. If an unapproved substitution was made, please indicate and attach any relevant information.

**Part IV: Signature and Notarization**

The completed document must be signed by an authorized representative of the Contractor/Contractor/Vendor firm and notarized by a public notary prior to submission to ATL.



**DBE/SBE UTILIZATION CONTRACT CLOSE-OUT REPORT**

**Instructions:** This form must be signed by an authorized representative of the Contractor/Contractor/Vendor and notarized. Detailed instructions are provided on the previous page.

**ATL Contract No.:** \_\_\_\_\_

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

**Contractor/Contractor/Vendor Name:** \_\_\_\_\_

**Contractor/Contractor/Vendor is:**

- Non-DBE
- DBE
- SBE

**Part I: Summary Information**

	<b>Original Contract and Utilization Plan</b>	<b>Approved Changes</b>	<b>Final Total</b>	<b>Actual Amount Paid</b>
Contract Amount	\$	\$	\$	\$
DBE Amounts	\$	\$	\$	\$
	%		%	%

<b>DBE Race</b>	<b>Original Contract and Utilization Plan Percentage</b>	<b>Approved Changes</b>	<b>Final Total</b>	<b>Actual Amount Paid</b>
African American	%			
Hispanic	%			
Native American	%			
Asian American	%			
Other	%			

**Part II: Contractor/Contractor/Vendor Participation**

If Contractor/Contractor/Vendor is a DBE, contractor's participation, less any amount subcontracted

Original Contract and Utilization Plan	Approved Changes	Final Total
\$	\$	\$
(%)		(%)

**Part III: Subcontractor Participation**

List below all subcontractors/subconsultants/suppliers (DBEs as well as non-DBEs) used in performance of the contract.

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

Utilization Plan	Approved Changes	Actual Amount Paid	Amount of Retainage Due
\$	\$	\$	\$

Reasons for any difference between the Utilization Plan and the Final Total (Actual Amount Paid + Amount of Retainage Due): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

Utilization Plan	Approved Changes	Actual Amount Paid	Amount of Retainage Due
\$	\$	\$	\$

Reasons for any difference between the Utilization Plan and the Final Total (Actual Amount Paid + Amount of Retainage Due): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



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

Utilization Plan	Approved Changes	Actual Amount Paid	Amount of Retainage Due
\$	\$	\$	\$

Reasons for any difference between the Utilization Plan and the Final Total (Actual Amount Paid + Amount of Retainage Due): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Part IV: Affidavit**

The above information is true and complete to the best of my knowledge and belief.

Name and Title (Print) \_\_\_\_\_

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

State of \_\_\_\_\_

County of \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared \_\_\_\_\_ and having been duly sworn by me subscribed to the foregoing affidavit and has stated therein are true and correct.

\_\_\_\_\_  
Printed Name of Notary

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**FOR INTERNAL USE ONLY**

Signature: \_\_\_\_\_  
ATL Technical Lead

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

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