# REQUEST FOR PROPOSALS

# FC-5870, OPERATION SHIELD VIDEO SURVEILLANCE PROGRAM

**Atlanta, Georgia**

**Kasim Reed**
**Mayor**
**City of Atlanta**

**Michael Dogan**
**Interim Chief Information Officer**
**Department of Information Technology**

**Adam L. Smith, Esq., CPPO, CPPB**
**Chief Procurement Officer**
**Department of Procurement**

# CITY OF ATLANTA

Kasim Reed
Mayor

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DEPARTMENT OF PROCUREMENT
Adam L. Smith, Esq., CPPO, CPPB
Chief Procurement Officer
asmith@atlantaga.gov

April 9, 2012

ATTENTION INTERESTED PROPONENTS:

Your firm is hereby invited to submit to the City of Atlanta, Department of Procurement ("**DOP**"), a proposal for **FC-5870 Operation Shield Video Surveillance Program**. The City of Atlanta (the "**City**") is soliciting proposals from qualified vendors for the installation of an infrastructure wireless mesh network design to support the zones and the design lays the foundation for future expansion of Operation Shield overall vision; deployment of the wireless mesh network; installation of cameras; and system integration services to support the full implementation of the Precinct Infrastructure Development Initiative. System Integration Services will include but not limited to the ensuring all services are operational within the zones and "fully integrated and meet technical specification" for optimal integration to the VIC. The successful proponent(s) will be responsible for providing all material, equipment, and labor for the required Scope of Work.

A **Pre-proposal Conference** will be held on **Tuesday, April 17, 2012, at 10:00 a.m.**, in the DOP's Bid Conference Room at 55 Trinity Avenue, Atlanta, GA 30303. The purpose of the Pre-proposal Conference is to provide proponents with detailed information regarding the project and to address questions and concerns. There will be representatives from the Department of Information Technology, Office of Risk Management, and the Office of Contract Compliance available at the conference to discuss this project and to answer any questions. Proponents are urged to attend the Pre-proposal Conference. Mandatory Site Visits will be conducted on April 18th and 19th. Potential Proponents must participate in both Site Visits.

The last date to submit questions is Friday, April 20, 2012, at 3:00 p.m. EST. Questions will be responded to in the form of an Addendum.

Your response to this Request for Proposals will be received by designated staff of the Department of Procurement at 55 Trinity Avenue, S.W., City Hall South, Suite 1900, Atlanta, Georgia 30303, **no later than 1:59 p.m., Tuesday, May 1, 2012.**

****ABSOLUTELY NO PROPOSALS WILL BE ACCEPTED AFTER 1:59 P.M.****

Proponents' names will be publicly read at 2:00 p. m. on the respective due date in Suite 1900, 1st Floor, 55 Trinity Avenue, S.W., City Hall South, Atlanta, Georgia 30303.

The proposal document may be obtained from the Department of Procurement, Plan Room, City Hall South, Suite 1900, 55 Trinity Avenue, S.W., Atlanta, Georgia, 30303, at a cost of $50.00 per package. Payment for the documents represents production costs; therefore, payment is non-refundable.

If you have any questions regarding this project, please contact Keith Brooks, Deputy Chief Procurement Officer, at (404) 865-8650, or by e-mail at kbrooks@atlantaga.gov. Any questions regarding the procedure for purchasing a copy of the document or obtaining a copy of the plan holder's list should be directed to the Plan Room at (404) 330-6069.

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

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

Sincerely,

Adam L. Smith

Adam L. Smith

# PART 1 OF 2

## Part 1; Information and Instructions to Proponents

1. **Services Being Procured:** This Request for Proposals ("**RFP**") from qualified proponents ("Proponent" or "Proponents") by the City of Atlanta ("City"), on behalf of its Department of Information Technology ("**DIT**"), seeks to procure the following services ("**Services**"): the installation of an infrastructure wireless mesh network design to support the zones and the design lays the foundation for future expansion of Operation Shield overall vision; deployment of the wireless mesh network; installation of cameras; and system integration services to support the full implementation of the Precinct Infrastructure Development Initiative. System Integration Services will include but not limited to the ensuring all services are operational within the zones and "fully integrated and meet technical specification" for optimal integration to the VIC. The successful proponent(s) will be responsible for providing all material, equipment, and labor for the required Scope of Work._A more detailed Scope of Services sought in this procurement is set forth in Exhibit A–Services attached to the Services Agreement ("**Services Agreement**"); Contract No. FC-5870; Operation Shield Video Surveillance Program included in this RFP at Part 5.[1]

2. **Method of Source Selection:** This procurement is being conducted in accordance with all applicable provisions of the City of Atlanta's Code of Ordinances, including its Procurement and Real Estate Code and the particular method of source selection for the services sought in this RFP is Code Section 2-1193. By submitting a Proposal concerning this procurement, a Proponent acknowledges that it is familiar with all laws applicable to this procurement, including, but not limited to, the City's Code of Ordinances and Charter, which laws are incorporated into this RFP by reference. Additionally, the Proponent attests that it has ability to comply with all applicable laws and ability to comply with the schedule of the commencement and completion of the services, as required by the city

3. **Minimum Qualifications; Authority to Transact Business in Georgia:** Proponent must have been in business for a minimum of fifteen (15) years. Proponent must have five (5) years of verifiable expertise delivering wireless mesh network and electronic security systems and services. Prime vendor must have in-house physical security professional certified engineer, software engineer/programmer and system architects with security software integration expertise. Each Proponent must submit with its Proposal documentation that demonstrates it is duly authorized to conduct business in the State of Georgia.

4. **No Offer by City; Firm Offer by Proponent:** This procurement does not constitute an offer by City to enter into an agreement and cannot be accepted by any Proponent to form an agreement. This procurement is only an invitation for offers from interested Proponents and no offer shall bind City. A Proponent's offer is a firm

[1] All capitalized terms contained in the Services Agreement are incorporated into this RFP.

offer and may not be withdrawn except under the rules specified in City's Code of Ordinances and other applicable law.

5. **Proposal Deadline:** Your response to this RFP must be received by the City's Department of Procurement, 55 Trinity Avenue, S.W., City Hall South, Suite 1900, Atlanta, Georgia 30303-0307 no later than 1:59 p.m., EST (as verified by the Bureau of National Standards) on May 1, 2012. Any Proposal received after this time will not be considered and will be rejected and returned.

6. **Pre-Proposal Conference:** Each Proponent must attend the Pre-Proposal Conference scheduled for Tuesday, April 17, 2012, at 10:00A.M., at 55 Trinity Avenue, S.W., City Hall South, Suite 1900, Atlanta, Georgia 30303. Each Proponent must be fully informed regarding all existing and expected conditions and matters which might affect the cost or performance of the Services. Any failure to full investigate the Jobsite(s) shall not relieve any Proponent from responsibility from evaluating properly the difficulty or cost of successfully performing the Services. Mandatory site visits will be conducted on April 18th and 19th. Potential proponents must participate in both Site Visits.

7. **Proposal Guarantee:**

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

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

8. **Procurement Questions; Prohibited Contacts:** Any questions regarding this RFP should be submitted in writing to the City's contact person, Keith O. Brooks, Deputy Chief Procurement Officer, Department of Procurement, 55 Trinity Avenue, SW, Suite 1900, Atlanta, Georgia 30303-0307, or e-mail **kbrooks@atlantaga.gov**, on or before April 20, 2012 @ 3:00 PM. Questions received after the designated period may not be considered. Any response made by the City will be provided in writing to all Proponents by addendum. It is the responsibility of each Proponent to obtain a copy of any Addendum issued for this procurement by monitoring the City' website at www.atlantaga.gov and its Department of Procurement's Plan Room which is open during posted business hours, Suite 1900, 1st Floor, 55 Trinity Avenue, S.W., City Hall South, Atlanta, Georgia 30303. No Proponent may rely on any verbal response to any question submitted concerning this RFP. All Proponents and representatives of any

Proponent are strictly prohibited from contacting any other City employees or any third-party representatives of the City on any matter having to do with this RFP. All communications by any Proponent concerning this RFP must be made to the City's contact person, or any other City representatives designated by the Chief Procurement Officer in writing.

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

10. **Insurance and/or Bonding Requirements:** The Insurance and/or Bonding requirements for any Agreement that may be awarded pursuant to this RFP are set forth in Appendix B-Insurance and Bonding Requirements attached to the Services Agreement included in this RFP.

11. **Applicable City OCC Programs:** The City's OCC Programs applicable to this procurement are set forth in Appendix A; Office of Contract Compliance Submittals, attached to the Services Agreement included in this RFP. By submitting a Proposal in response to this procurement, each Proponent agrees to comply with such applicable OCC Programs.

12. **Evaluation of Financial Information:** The City's evaluation of financial information concerning a Proponent and its consideration of such information in determining whether a Proponent is responsive and responsible may involve a review of several items of information required to be included in a Proposal. City will review the information included in Form 2; Company Financial Statements attached to this RFP and any additional information required on that form to be included in a Proposal. Further, if this RFP requires the provision of a Payment Bond and/or Performance Bond if an Agreement is awarded, the City will review the information included in Form 5; Proof of Insurance and Bonding Capacity. A Proponent must include with that form (a) notarized letter(s) from its proposed insurer(s) and surety(ies) indicating that the financial capacity of the Proponent is such that the insurer(s)/surety(ies) is/are willing to issue insurance and Payment and Performance Bonds for the Proponent if an Agreement is awarded to it. Further, if this RFP requires a successful Proponent that is awarded an Agreement pursuant to this procurement to post some other type of performance guarantee (e.g. letter of credit, guaranty agreement, etc.), a Proponent must submit with its Proposal a notarized letter from an appropriate financial institution (e.g. bank) indicating that it is willing to issue such performance guarantee for the Proponent if an Agreement is awarded to it.

13. **Special Rules Applicable to Evaluation of Proposals:** A Proponent may be required to submit, in writing, the addresses of any proposed subcontractors or equipment manufacturers listed in the Proposal and to submit other material information relative to proposed subcontractors. City reserves the right to disapprove any proposed subcontractors whose technical or financial ability or resources or whose experience are deemed inadequate.

14. **Examination of Proposal Documents:**

14.1. Each Proponent is responsible for examining with appropriate care the complete RFP and all Addenda and for informing itself with respect to all conditions which might in any way affect the cost or the performance of any Services. Failure to do so will be at the sole risk of the Proponent, who is deemed to have included all costs for performance of the Services in its Proposal.

14.2. Each Proponent shall promptly notify City in writing should the Proponent find discrepancies, errors, ambiguities or omissions in the Proposal Documents, or should their intent or meaning appear unclear or ambiguous, or should any other question arise relative to the RFP. Replies to such notices may be made in the form of an addendum to the RFP, which will be issued simultaneously to all potential Proponents who have obtained the RFP from City.

14.3. City may in accordance with applicable law, by addendum, modify any provision or part of the RFP at any time prior to the Proposal due date and time. The Proponent shall not rely on oral clarifications to the RFP unless they are confirmed in writing by City in an issued addendum.

14.4. Each Proponent must confirm Addenda have been received and acknowledge receipt by executing Form 6; Acknowledgment of Addenda attached to this RFP at Part 4.

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

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

17. **Illegal Immigration and Enforcement Act:** This Request for Proposals/Invitation to Bid is subject to Illegal Immigration and Enforcement Compliance. Pursuant to the Georgia Security & Immigration Compliance Act of 2006, as amended on May 11, 2009, the bidders and proponents are notified that all bids/proposals for services that are to be physically performed within the State of Georgia must be accompanied by proof of their registration with and continuing and future participation in the E-Verify Program established by the United States Department of Homeland Security. A completed affidavit (Appendix C) must be submitted on the top of the bid/proposal at the time of submission, prior to the time for opening the bids/proposals. Under state law, the City cannot consider any bid/proposal which does not include completed affidavit. It is not the intent of this notice to provide detailed information or legal advice concerning the Georgia Security & Immigration Compliance Act of 2006, as amended on May 11, 2009. All bidders/proponents intending to do business with the City are responsible for

independently apprising and complying with the requirements of that law and its effect on City procurement and their participation in those procurement. For additional information on the E-Verify program or to enroll in the program, go to: https://e-verify.uscis.gov/enroll.

18. **S.A.V.E. Systematic Alien Verification of Entitlements Form:** A completed form (Appendix C) must be submitted at the time of proposal submission.

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## Part 2; Contents of Proposals/Required Submittals

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

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

2. **Informational Proposals:** An Informational Proposal is comprised of 2 sources of information:

   2.1. information drafted and provided by a Proponent (to be submitted in a Volume I to a Proposal); and
   2.2. information provided by a Proponent on forms provided by the City (or required to be created by a Proponent) in this RFP (to be submitted in a Volume II to a Proposal).

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

   3.1. **Summary:** The following is a summary of information required to be contained in an Informational Proposal:

   **3.1.1. Information Drafted And Provided By A Proponent:** This information should be included in a Volume I to a Proposal:

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

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

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

   3.1.2.1.1. Form 1; Proponent Contact Directory;
   3.1.2.1.2. Form 2; Proponent Financial Statements and Other Financial Information;
   3.1.2.1.3. Form 3; Disclosure Form and Questionnaire;
   3.1.2.1.4. Form 4; Acknowledgment of Insurance and Bonding Requirements;
   3.1.2.1.5. Form 5; Proof of Insurance Coverage and Bonding Capacity;

3.1.2.1.6. Form 6; Acknowledgment of Addenda;
3.1.2.1.7. Form 7; List of Clients; and
3.1.2.1.8. S.A.V.E.

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

3.1.2.2.1. Exhibit A.1-Cost Proposal;
3.1.2.2.2. Appendix A; City's OCC Programs; Office of Contract Compliance Submittals;
3.1.2.2.3. Appendix C; Miscellaneous Forms; and
3.1.2.2.3.1. Security and Immigration Compliance Forms.

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

**3.2.1. Executive Summary.**

3.2.1.1. **Cover Letter:** The executive summary must include a letter with the Proponent's name, address, telephone number and fax number, signed by a person authorized to act on behalf of the Proponent. The letter should also include the name, title, address, e-mail address, telephone number and fax number of the person signing the letter and the name, title, address, e-mail address, telephone number, cell number, and fax number of one (1) contact person to whom all future correspondence and/or communications may be directed by the City concerning this procurement, if that person is different from the person executing the letter. The letter should also designate the type of business entity that proposes to enter into a Contract with the City and the identity of any other business entities that will comprise the Proponent and include a brief history of the Proponent and statement of the Proponent's approach to providing the services solicited in this RFP.

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

3.2.1.2.1. Complete legal name of the Proponent and the name of the legal entities that comprise the Proponent. The Proponent must provide the domicile where each entity comprising it is organized, including entity name, brief history of the entity, contact name, address, phone number, and facsimile number, as well as the legal structure of the entity and a listing of major satellite offices;

3.2.1.2.2. The general and specific capabilities and experience of the Proponent's Team. Each Proponent must identify examples where team members have worked together to complete a project and discuss how the team was formed and how the team will function as an integrated unit in providing services to the City;

3.2.1.2.3. A description of the Proponent's plan for complying with the City's EBO goals. This section should include detailed information regarding the essential subcontractors/subconsultants the Proponent intends to use and should indicate the role and responsibilities these firms will be assigned. Each Proponent must provide a letter from each essential subcontractor/subconsultant indicating that the firm concurs with the role and responsibility Proponent has described;

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

3.2.2. **Organizational Structure.** The Proponent's Organizational Structure Section of the Proposal should introduce the proposed Proponent team by:

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

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

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

**3.2.3. Key Personnel/Resumes:**

3.2.3.1. Identify and provide resumes for the individuals that the Team will use to fill the following positions:

3.2.3.1.1. Project Manager;

3.2.3.1.2. Firetide Certified Mesh Administrator No. 1; and
3.2.3.1.3. Firetide Certified Mesh Administrator No. 2.

3.2.3.2. Resumes should be organized as follows:

3.2.3.2.1. Name and Title;
3.2.3.2.2. Professional Background;
3.2.3.2.3. Current and Past Relevant Employment;
3.2.3.2.4. Education;
3.2.3.2.5. Certifications (Firetide Certified Mesh Professional Certification);
3.2.3.2.6. List of (2) Relevant projects (see 3.2 in the Scope of Services for additional requirements), including:
3.2.3.2.6.1. Client Name;
3.2.3.2.6.2. project description;
3.2.3.2.6.3. role of the individual;
3.2.3.2.6.4. project actual or expected completion date; and
3.2.3.2.7. Client List/Reference Contact.

3.2.3.3. For each Resume provided, each Proponent must provide a minimum of two, one to two page letters of recommendation from clients for whom that individual has held a similar role within the past ten (10) years. The letter must state at a minimum:

3.2.3.3.1. the role the individual held in the project;
3.2.3.3.2. the original contract schedule to start and complete the project;
3.2.3.3.3. the actual start and completion dates of the project;
3.2.3.3.4. whether the individual was full-time on the project and the Client's perceived key contribution that individual made in completing the Client's project either within the Client's original planned total cost or original schedule duration or both; and
3.2.3.3.5. the quality of the facility's operation since the Client's acceptance at turnover.

3.2.3.4. Submission of these names constitutes a commitment to use these individuals if the Proponent is selected, and changes may be made only with the prior written consent of the City. In the event there is need to replace key team members during the course of the project, Proponent must describe its back-up personnel plan.

*3.2.4.* Overall Experience, Qualifications and Performance on Previous Projects. 15 years of relevant experience. See Sections 31.2 and 3.2 in the Scope of Services.

3.2.5. **Management Plan.** Based on the Proponent's Organizational structure, describe how the Proponent will manage the Services, specifically addressing the following:

3.2.5.1. Proponent's approach to team leadership;
3.2.5.2. how the Proponent will:
3.2.5.2.1. ensure proper communications among pertinent project team members;
3.2.5.2.2. assure the City that each scope of Services will kept within any established time and budget constraints;
3.2.5.2.3. establish and maintain the necessary cooperative relationships;
3.2.5.2.4. coordinate all necessary project activities within that team relationship;
3.2.5.3. identify the tools that are intended to be used to manage these project elements;
3.2.5.4. Proponent's proposed method to:
3.2.5.4.1. Identify and resolve issues during the project duration; and
3.2.5.5. Make critical decisions.

**3.3. Cost Proposal.** Each Proponent must submit a Cost Proposal using the form provided by the City under the section; Services Agreement; Exhibit A.1-Cost Proposal. The Cost Proposal must support the Scope of Services contained in the RFP and fully encompass all activities in the Proponent's Proposal. The Cost Proposal shall serve as the baseline for final fee negotiation with the City. Submit one (1) stamped "Original" and seven (7) copies in a separate envelope).

## 4. Submission of Proposals:

4.1. A Proposal must be submitted in sealed envelope(s) or package(s) and the outside of the envelope(s) or package(s) must clearly identify the name of the project: FC-5870; Operation Shield Video Surveillance Program and the name and address of the Proponent. All Proposals must be submitted to:

**Adam L. Smith, Esq., CPPO, CPPB**
**Chief Procurement Officer**
**Department of Procurement**
**55 Trinity Avenue, S.W.**
**City Hall South, Suite 1900**
**Atlanta, Georgia 30303-0307**

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

4.3. A Proponent is required to submit, in a separate, sealed envelope, clearly marked "Cost Proposal", one (1) stamped original and Seven (7) copies of its Cost Proposal with its Information Proposal.

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

| Item # | Required Proposal Submittal<br>Check Sheet[2] | Check (√) |
|---|---|---|
| | **FORMS TO BE SUBMITTED WITH PROPOSAL THAT WILL NOT FORM PART OF THE CONTRACT, IF AWARDED:** | |
| 1. | **Form 1; Proponent Contact Directory** | |
| 2. | **Form 2; Proponent Financial Statements and Other Financial Information** | |
| 3. | **Form 3; Disclosure Form and Questionnaire** | |
| 4. | **Form 4; Acknowledgement of Insurance and Bonding Requirements** | |
| 5. | **Form 5; Proof of Insurance Coverage and Bonding Capacity** | |
| 6. | **Form 6; Acknowledgment of Addenda** | |
| 7. | **Form 7; List of Clients** | |
| 8. | **Miscellaneous; Documentation evidencing Proponent's authority to transact business in the State of Georgia** | |
| 9. | **S.A.VE. Affidavit Form** | |
| | **DOCUMENTS/FORMS THAT WILL FORM PART OF THE CONTRACT, IF AWARDED:** | |
| 1. | **Exhibit A.1-Cost Proposal (to be completed by Proponent and submitted with Proposal)** | |
| 2. | **Appendix A; City's OCC Programs; Office of Contract Compliance Submittals; EBO Forms 1, 2, 3 and4 (to be completed by Proponent and submitted with Proposal)[3]** | |
| 3. | **Security and Immigration Compliance Forms (to be completed by Proponent and submitted with Proposal)** | |

[2] This table is included for Bidder's convenience and may be used to track the preparation and submittal of certain required information with its Bid.
[3] Appendix B; Insurance and Bonding Requirements is a part of the Services Agreement but is not a form that is required to be completed by a Proponent.

## Part 3; Evaluation of Proposals

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

All Proposals will be evaluated using the following Evaluation Form:

| RELATIVE WEIGHT | GRADED ITEM | SCORE |
|---|---|---|
| 5 | **Executive Summary** | |
| 10 | **Organization/Resumes of Key Personnel** | |
| 20 | **Management Plan/Technical Approach** | |
| 20 | **Overall Experience, Qualifications and Performance on Previous Similar Projects** | |
| 15 | **OCC Programs** | |
| 5 | **Financial Capability** | |
| 25 | **Cost Proposal** | |
| 100% | **TOTAL SCORE** | |

## Part 4; Submittal Forms

**FORM 1**
**PROPONENT CONTACT DIRECTORY[4]**

| NAME | POSITION/TITLE | MAILING ADDRESS | PHONE NUMBER | FAX NUMBER | EMAIL ADDRESS |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

[4] The purpose of the Proponent Contact Directory is to provide the City with a centralized, easily identified source of important contacts and other information regarding each of the business entities constituting a Proponent. This Proponent Contact Directory should include the names, positions/titles, firms, mailing addresses, phone and fax numbers and e-mail addresses for each of the following as it pertains to each of the firms in a Proponent's team:

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

## FORM 2[5]: Proponent Financial Statements and Other Financial Information

Note: If a general partnership or a joint venture is proposed, all member companies are to respond separately to all questions, completing separate Forms 2 to be included in the RFP.

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ALL FIGURES IN U.S. DOLLARS (US$)

1. Summary of assets and liabilities on basis of the audited financial statement of the last three financial years.

   Standard currency of Company's Financial Statement: . . . . . .

   The exchange rate used: ..... = US $.....

| | Year ____ (million) | Year ____ (million) | Year ____ (million) |
|---|---|---|---|
| Current Assets | US$..... | US$..... | US$..... |
| Current Liabilities | US$..... | US$..... | US$..... |
| Working Capital | US$..... | US$..... | US$..... |
| Total Assets | US$..... | US$..... | US$..... |
| Total Liabilities | US$..... | US$..... | US$..... |
| Net-Worth | US$..... | US$..... | US$..... |

The above figures are to be prepared and attested to by a Certified Public Accountant

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2. Total value of the balance of work in hand:

   US $.....

3. Value of available credit for the Project from reputable local Banks or foreign bank verified by local banks.

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[5] Each Proponent should submit any other information it deems appropriate to reflect its financial capabilities.

| Name of Bank, Address, Telephone and Fax numbers | Amount (US$) |
|---|---|
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |
| Total | ..... |

4. Amounts of manufacturing and/or construction work for the last five years.

| Year ____ (million) | Year ____ (million) | Year (million) | Year _____ (million) | Year _____ (million) |
|---|---|---|---|---|
| US$..... | US$..... | US$..... | US$..... | US$..... |

5. (a) Please attach copies of the Company's most recent (3) three-years audited financial statements certified by a Certified Public Accountant, licensed accountant and other financial data which you consider to be useful. Proponents should demonstrate financial capability by providing the following documentation for each member of the proponent's team:

   Annual reports and financial statements including income statements, balance sheets, and changes in financial position.

   The latest quarterly financial report and a description of any material changes in financial position since the last annual report.

   Providing banking or other institutional lenders references, and provide any other information that the Proponent may deem appropriate to reflect its financial capability.

   (b) Please attach the statement from the banks confirming the Company's credit lines available for the Project.

   (c) Proponents are required to submit hard copies of all of the above financial conditions.

## Form 3; Disclosure Form and Questionnaire

Proponent's disclosures must fully answer all questions posed by the City. Such disclosure must be submitted at the time of the Proposal submission and included as a part of the Proposal.

For the purposes of this disclosure form:

1. "Proponent" means, and disclosure is required for, each Proponent and its constituent members, firms, partners, joint venturers and first-tier subconsultants.

2. "affiliate" means any legal entity that, directly or indirectly through one of more intermediate legal entities, controls, is controlled by or is under common control with the Proponent or a member of Proponent.

3. "control" means that the controlling entity: (i) possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the controlled entity, whether through the ownership of voting securities or by contract or otherwise; or (ii) has direct or indirect ownership in the aggregate of fifty one (51%) or more of any class of voting or equity interests in the controlled entity.

The following information must be provided:

1. Please provide the names and business addresses of Proponent and each of Proponent's officers, directors, affiliates and other employees, agents or representatives for this project: FC-5870; Operation Shield Video Surveillance Program. Describe accurately, fully and completely their respective relationships with the Proponent, including their ownership interests and their anticipated role in the management and operations of the Proponent.

2. Please describe the general development of the Proponent's business during the past ten (10) years, or such shorter period of time that the Proponent has been in business.

3. List any lawsuits, administrative actions or litigation to which Proponent is currently a party or has been a party (either as a plaintiff or defendant) during the past ten (10) years based upon fraud, theft, breach of contract, misrepresentation, safety, wrongful death or other similar conduct. For each suit, list all parties and indicate whether any party was a bonding company, insurance company, an owner, or otherwise. State the project giving rise to the lawsuit, administrative action or litigation, explain the basis for all claims and state whether a settlement was reached or a judgment was entered, identifying each party against whom a judgment was entered.

5. Provide details if Proponent has been charged with a criminal offense within the last ten (10) years.

6. Describe any citation or notices of violation which Proponent received from any government agency in connection with any of Proponent's work during the past ten (10) years. Include OSHA violations, except for de minimus dollar amounts.

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

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

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

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

10. State whether any employee, agent or representative of Proponent who is or will be directly involved in the project, in the last ten (10) years: (i) has or had, directly or indirectly, a business relationship with the City; (ii) directly or indirectly has received revenues from the City or (iii) directly or indirectly has received revenues from conducting business on City property or pursuant to any contract with the City.

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

**NOTE: In addition to providing detailed narrative answers to the questions posed in this disclosure form and questionnaire Proponent may attach any other documents that may provide information responsive to the subjects in this disclosure form and questionnaire.**

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

**Date:**_____

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

_____

**By:**_____
**Name:**_____
**Title:**_____

_____

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

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

_____

**By:**_____
**Name:**_____
**Title:**_____

_____

**Notary Public (Seal)**
**My Commission Expires:**_____

## Form 4; Acknowledgment of Insurance and Bonding Requirements

I, _____, on behalf of _____, Proponent, acknowledge that if selected as the successful Proponent for **FC-5870; Operation Shield Video Surveillance Program**. Proponent shall comply completely and promptly with all insurance and bonding requirements contained in the Form of Agreement attached to this Solicitation and appendices thereto, pertaining to insurance or bonding.

Proponent understands that it is expected to share these requirements with potential sureties and insurance brokers, agents, underwriters, etc. prior to any award of an Agreement and to take all necessary steps to ensure compliance with the applicable requirements without delay. Proponent understands, acknowledges and agrees that any failure to fully comply with these requirements within ten (10) days of the date Proponent receives a final Agreement document from the City may result in the forfeiture of the Proposal guarantee submitted with this Proposal and/or the disqualification of Proponent from further consideration for the Agreement.

By executing this Acknowledgement of Insurance and Bonding Requirements, I represent that the Proponent understands and agrees to comply unconditionally with all requirements related to insurance and bonding contained in the Form of Agreement attached to this Solicitation. Further, by signing below, I represent that I am authorized to make the representations contained herein on behalf of Proponent.

**Date:**_____

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

_____

**By:**_____
**Name:**_____
**Title:**_____

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

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

_____

**By:**_____
**Name:**_____
**Title:**_____

_____
**Notary Public (Seal)**
**My Commission Expires:**_____

## Form 5; Proof of Insurance Coverage and Bonding Capacity

**PROJECT; FC-5870; Operation Shield Video Surveillance Program**

**INSURANCE COVERAGE AND BONDING CAPACITY**

**CITY OF ATLANTA, GEORGIA**

Proponent shall provide the City with satisfactory evidence of the Proponent's ability to obtain the required insurance and bonds from (a) company(ies) satisfactory to the City and licensed by the Insurance Commissioner of the State of Georgia to transact Surety business in the State of Georgia. Proponent shall submit this form with its Proposal.

**SURETY:**

COMPANY NAME:_____

COMPANY ADDRESS:_____

_____

CONTACT NAME AND PHONE:_____

BONDING CAPACITY IS:_____

**INSURER:**

COMPANY NAME:_____

COMPANY ADDRESS:_____

_____

CONTACT NAME AND PHONE:_____

***Proponent is required to submit a letter from the Company providing insurance and bonds for this project certifying that the Company will provide insurance and bonds in accordance with the terms set forth in Appendix B.***

**Date:**_____

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

_____

**By:**_____
**Name:**_____
**Title:**_____

_____

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

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

_____

**By:**_____
**Name:**_____
**Title:**_____

_____

**Notary Public (Seal)**
**My Commission Expires:**_____

## Form 6; Acknowledgment of Addenda

## Acknowledgement of Addenda

Bidders/Proponents must sign below and return this form with Bids/Proposals to the Department of Procurement, 55 Trinity Avenue, City Hall South, Suite 190

0, Atlanta, Georgia 30303, as acknowledgment of receipt of certain Addenda.

This is to acknowledge receipt of the following **Addenda** for **FC-5870; Operation Shield Video Surveillance Program:**

1. _____;
2. _____;
3. _____; and
4. _____.

Dated the _____ day of _____, 20___.

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

_____

**By:**_____
**Name:**_____
**Title:**_____

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

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

_____

**By:**_____
**Name:**_____
**Title:**_____

_____
**Notary Public (Seal)**

**My Commission Expires:**_____

## Form 7; List of Clients[6]

Proponents should provide a list of at least three (3) clients as references using the following format:

1. Client: Name
   Address
   City, State, Zip
   Phone
   Fax

   Project: Conference Management Services

   Contact Person: Mr. John Doe
   (404) 555-5555

   Date(s) of Project: August 12, 2000 to August 19, 2001

   Description/Summary of Services:

   Cost/Amount of Contract:

   Firm's Role: Responsible for etc.

   Completion Status:

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2. (Next Client)

[6] Proponent should include client name, address, phone/fax number, contact name and summary of services provided to client, including dates services were provided. Proponent may supplement this form by attaching additional pages to it or may create its own form for including in its Proposal as long as such form meets the informational requirements of this form.

## Part 5; Draft Services Agreement

# DRAFT SERVICES AGREEMENT; CONTRACT NO. FC-5870, OPERATION SHIELD VIDEO SURVEILLANCE PROGRAM

This Services Agreement ("Agreement") is entered into and effective as of _____ (the "Effective Date") between the City of Atlanta ("City") and the service provider ("Service Provider") set forth below.

| | |
|---|---|
| **Contract Name:** | **Contract No. FC-** |
| **Service Provider** | **City of Atlanta** |
| **Name:** | **Using Agency:** |
| **Address:** | **Address:** |
| **Phone:** | **Phone:** |
| **Fax:** | **Fax:** |
| **Authorized Representative:** | **Authorized Representative:** |

**1. Background.**

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

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

**2. Term.**

2.1 Initial Term. The initial term of this Agreement will be six (6) months.. This Agreement shall commence on the Effective Date and end six (6) month after the Effective Date. The initial term of the Agreement and any renewal term(s) are collectively referred to as the "Term".

2.2 Renewal Terms. City shall have the right in its sole discretion to renew this Agreement for two (2) additional one (1) year terms according to the following procedure:

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

**3.** If such legislation is enacted, within ___ days of such enactment, City will notify Service Provider of such renewal, at which time Service Provider shall be bound to provide Services during such renewal Term, without the need for the Parties to execute any further documents evidencing such renewal, it being acknowledged by Service Provider that its initial execution of

this Agreement is deemed its agreement to continue to provide Services during any renewal Term.

**4. Interpretation.**

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

4.2 If there is a conflict between any of the Contract Documents, precedence shall be given in the following order:[1]

1. Agreement
2. Exhibit A – Services and Additional Compensation Terms
3. Exhibit B - Definitions
4. Exhibit D - City Security Policies
5. Exhibit E - Dispute Resolution Procedures
6. Appendix A - Office of Contract Compliance Requirements
7. Appendix B - Insurance and Bonding Requirements
8. Additional Contract Documents

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

**5. Services.**

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

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

5.3 Change Documents.

5.3.1 This section will govern changes to the Agreement, whether such changes involve an increase in the Maximum Payment Amount or not. Changes in the Services or other

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

aspects of this Agreement shall be made by written document ("Change Document" or "Unilateral Change Document").[2] All changes shall be implemented pursuant to this subsection (the "Change Document Procedures") and any Applicable Law.

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

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

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

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

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

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

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

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

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[2] Change Documents may assume numerous multiple forms and titles depending on the nature of the change involved (e.g. Change Order, Unilateral Change Order, Amendment, Contract Modification, Renewal, etc.).

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

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

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

## 6. Service Provider's Obligations.

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

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

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

6.4 Removal of Personnel Assigned to City Contract. Within a reasonable period, but not later that seven (7) days after Service Provider's receipt of notice from City that the continued assignment to the City Contract of any Service Provider Personnel is not in the best interests of City, Service Provider shall remove such Service Provider Personnel from City's Contract. Service Provider will not be required to terminate the employment of such individual. Service Provider will assume all costs associated with the replacement of any Service Provider Personnel. In addition, Service Provider agrees to remove from City's Contract any Service Provider Personnel who has engaged in willful misconduct or has committed a material breach of this Agreement immediately after Service Provider becomes aware of such misconduct or breach.

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

6.6 Key Service Provider Personnel and Key Subcontractors.

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

(a) _____;

(b) _____; and

(c) _____.

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

(a) _____;

(b) _____; and

(c) _____.

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

6.7 Conflicts of Interest. Service Provider shall immediately notify City in writing, specifically disclosing any and all potential or actual conflicts of interests, which arise or may arise during the execution of its work in the fulfillment of the requirements of the Agreement.

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

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

## 7. City's Authorized Representative.

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

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

## 8. Payment Procedures.

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

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

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

8.4 Payment. City shall endeavor to pay all undisputed Charges within thirty (30) days of the date of the receipt by City of a properly rendered and delivered invoice.

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

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

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

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

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

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

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

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

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

## 10. Compliance with Laws.

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

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

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

## 11. Confidential Information.

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

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

## 12. Work Product.

12.1 Except as otherwise expressly provided in this Agreement, all reports, information, data, specifications, computer programs, technical reports, operating manuals and similar work or other documents, all deliverables, and other work product prepared or authored

by Provider or any of its contractors exclusively for the City under this Agreement, and all intellectual property rights associated with the foregoing items (collectively, the "Work Product") shall be and remain the sole and exclusive property of the City. Any of Provider's or its contractors' works of authorship comprised within the Work Product (whether created alone or in concert with City or Third Party) shall be deemed to be "works made for hire" and made in the course of services rendered and, whether pursuant to the provisions of Section 101 of the U.S. Copyright Act or other Applicable Law, such Work Product shall belong exclusively to City. Provider and its contractors grant the City a non-exclusive, perpetual, worldwide, fully paid up, royalty-free license to all Work Product not exclusively developed for City under this Agreement.

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

12.3 City shall have the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name or for its own benefit, all patents, copyrights, applications and registrations, renewals and continuations and all other appropriate protection.

12.4 To the extent exclusive title or complete and exclusive ownership rights in any Work Product created by Service Provider Personnel may not originally vest in City by operation of Applicable Law, Service Provider shall, immediately upon request, unconditionally and irrevocably assign, transfer and convey to City all rights, title and interest in the Work Product.

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

## 13. Audit and Inspection Rights.

13.1 General.

13.1.1 Service Provider will provide to City, and any Person designated by City, access to Service Provider Personnel and to Service Provider owned Facilities for the purpose of performing audits and inspections of Service Provider, Service Provider Personnel and/or any of the relevant information relating to the Services and this Agreement. Such audits, inspections

and access may be conducted to: (a) verify the accuracy of Charges and invoices; (b) examine Service Provider's performance of the Services; (c) monitor compliance with the terms of this Agreement; and (d) any other matters reasonably requested by City. Service Provider shall provide full cooperation to City and its designated Persons in connection with audit functions and examinations by regulatory authorities.

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

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

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

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

## 14. Indemnification by Service Provider.

14.1 General Indemnity. Service Provider shall indemnify and hold City, its agencies and its and their respective officers, directors, employees, advisors, and agents, successors and permitted assigns, harmless from any losses, liabilities, damages, demands and claims, and all related costs (including reasonable legal fees and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from claims or actions based upon:

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

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

(c) any actual, alleged, threatened or potential violation of any Applicable Laws by Service Provider or Service Provider Personnel, to the extent

such claim is based on the act or omission of Service Provider or Service Provider Personnel, excluding acts or omissions by or at the direction of City;

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

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

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

## 15. Limitation of Liability.

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

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

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

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

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

**18. Termination.**

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

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

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

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

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

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

termination for cause will be considered a termination for convenience in accordance with the provisions of the **Section entitled "Termination by City for Convenience"**.

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

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

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

18.6 Effect of Termination. Unless otherwise provided herein, termination of this Agreement, in whole or in part and for any reason, shall not affect: (a) any liabilities or obligations of either Party arising before such termination or out of the events causing such termination; or (b) any remedies to which a Party may be entitled under this Agreement, at law or in equity. Upon termination of this Agreement, Service Provider shall immediately: (i) discontinue Services on the date and to the extent specified in the notice and place no further purchase orders or subcontracts to the extent that they relate to the performance of the terminated Services; (ii) inventory, maintain and turn over to City all work product, licenses, equipment, materials, plant, tools, and property furnished by Service Provider or provided by City for performance of the terminated Services; (iii) promptly obtain cancellation, upon terms satisfactory to City, of all purchase orders, subcontracts, rentals or any other agreements existing for performance of the terminated Services, or assign those agreements, as directed by City; (iv) comply with all other reasonable requests from City regarding the terminated Services; and (v) continue to perform in accordance with all of the terms and conditions of this Agreement any portion of the Services that are not terminated.

## 19. Dispute Resolution.

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

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

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

## 20. General.

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

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

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

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

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

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

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

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

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

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

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

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

20.13 Unauthorized Goods or Services. Service Provider acknowledges that this Agreement and any changes to it by amendment, modification, change order or other similar document may have required or may require the legislative authorization of the City's Council and approval of the Mayor. Under Georgia law, Service Provider is deemed to possess knowledge concerning the City's ability to assume contractual obligations and the consequences of Service Provider's provision of goods or services to the City under an unauthorized contract, amendment, modification, change order or other similar document, including the possibility that the Service Provider may be precluded from recovering payment for such unauthorized goods or services. Accordingly, Service Provider agrees that if it provides goods or services to the City under a contract that has not received proper legislative authorization or if Service Provider provides goods or services to the City in excess of the any contractually authorized goods or services, as required by the City's Charter and Code, the City may

withhold payment for any unauthorized goods or services provided by Service Provider. Service Provider assumes all risk of non-payment for the provision of any unauthorized goods or services to the City, and it waives all claims to payment or to other remedies for the provision of any unauthorized goods or services to the City, however characterized, including, without limitation, all remedies at law or equity.

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

**City of Atlanta** **[Service Provider]**

_____

**Mayor**

_____

**Municipal Clerk (Seal)**

**Approved:**

_____

**[Using Agency]**

_____

**Chief Procurement Officer**

**Approved as to form:**

_____

**City Attorney**

**Signature Block Options for Service Provider:**

**Corporate signature:**

**[Insert Corporate Name]**

_____

**By:**_____

**Name:**_____

**Title:**_____

_____

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

**Limited Liability Company:**

**[Insert LLC Name]**

_____

**By:**_____

**Name:**_____

**Title:**_____

_____

**Notary Public (Seal)**

**My Commission Expires:**_____

# EXHIBIT A
## SERVICES AND ADDITIONAL COMPENSATION TERMS