

## CHATHAM AREA TRANSIT AUTHORITY RFP 2023-02, ADDENDUM NO. 1

**DATE:** September 21, 2022  
**ORIGINAL RFP NUMBER:** 2023-02  
**PROJECT:** Engineering and Design on Call Services RFP  
This Addendum forms a part of the Request for Proposals 2023-02 dated, August 26, 2022.

### Questions posed during initial Q&A Period and CAT's Responses:

Question 1: How does CAT intend to score DBE participation?

Response: The DBE score will be based on prime receives full points, and subcontract begins at half points based on percentage

Question 2: In reference to Attachment A/Section E (page 16): Can CAT clarify what area classes are required by using GDOT's Area Class Designation (i.e., 1.02 Urban Area and Regional Transportation Planning)?

Response: Urban Area and Regional Transportation Planning section 2.05 of GDOT Consultant Prequalification.

Question 3: Do DBEs need to be certified/registered DBE with a specific agency?

Response: Preferably GDOT and/or MARTA, however we do consider other states certifications.

Question 4: Can both prime and sub-consultant qualifications be used to meet prequalification requirements?

Response: Prime is required to meet qualifications, flexibility is allowed for sub-consultant as the contract is with the consultant directly.

Question 5: Could you confirm that sub-consultants only need to provide the following forms in the proposal: Attachment F, Proposer Information Form; Federal Certifications-Certification and Restrictions on Lobbying; and Government-Wide Debarment and Suspension? If this is incorrect, can you specify the correct forms in your response?

Response: The forms are required for both consultant and sub-consultant

Question 6: Are price proposals required for this submittal, and if so, should they be included in a separate, sealed envelope or as part of the technical submittal?

Response: Price proposal is required as part of the submittal together.

Question 7: Please confirm that *only* the original set of the proposal needs to be unbound; the 3 copies do not?

Response: One originals and three (3) copies are required, an electronic copy could be emailed or another format i.e. flash drive.

Question 8: On page 14 of the RFQ, section 1.35.4, it requests that we include Attachments B-G. On page 22, Attachment E (the checklist), it lists Attachments B-G as required as well as the “lobbying certification.” As this is conflicting information, please clarify if the “Certification and Restrictions on Lobbying” (pg 34 of the RFQ) required or not? Additionally, is the form on page 35 [the “Government-Wide Debarment and Suspension (Non-procurement)”] required since it was included in the RFQ as well?

Response: Yes the attachment from B-G are required as well as certification and restriction on lobbying and the government-wide debarment and suspension certification.

Question 9: Is an hourly rate schedule required to be included in the submittal?  
i. If so, should fully-loaded rates be provided?  
ii. If so, can we add an inflation factor for the various years (assuming this is a potential 5-year contract)? Or, can we request that CAT allow us to adjust the rates annually?

Response: Preferably an hourly rate as the project will be based on tasks request.  
i. Please provide fully loaded rates.  
ii. As a potential 5 year contract please include inflation factors with consideration of the term of the years of the contract.

Question 10: Can you provide a copy of the sample CAT contact for us to review?

Response: Please see attached.

Question 11: How is Chatham Area Transit defining a DBE for this submittal? What party or where should DBEs be certified through?

Response: Disadvantage Business Enterprise, there are specific qualifications that GDOT or MARTA requirements to certify businesses.

To participate in the DBE program, a small business owned and controlled by socially and economically disadvantaged individuals must receive DBE certification from the relevant state—generally through the state Unified Certification Program (UCP).

Question 12: Should our proposal be organized according to the Evaluation Criteria listed on page 13 including:

- Technical Ability
- Past Performance
- Staffing, Project Organization and Management Plan
- Pricing
- DBE Certification

Response: The proposal could be organized as the evaluation criteria.

Question 13: Are there any page limitations or formatting preferences for the submission?

Response: There are no page limitations, nor formatting preferences.

Question 14: Please clarify what is requested related to pricing. Should we include a table with our hourly rates? If so, can we include escalation as this is a multiyear contract?

Respond: please see response to question 9.

Question 15: Can you please also expand how the pricing will be evaluated?

Response: Price proposal is evaluated based on cost.

Question 16: Does the Prime consultant firm and/or team need to provide a prequalification certificate(s) in any or all of the area classes listed in the RFP?

Question 17: Is prequalification required in all area classes listed in each RFP?

Response: See response to question no. 2.

Question 18: Are there page limits for the submittal or any specific sections (e.g., resumes)?

Response: See response to question 13.

Question 19: Is there a preferred format for the submittal?

Response: See response to question 13.

Question 20: Pricing is listed as an Evaluation Criteria. Are hourly rates for individuals included in the proposal sufficient, or are specific employee classes requested?

Response: See response to question 9.

Question 21: What are the submittal requirements (e.g., number of printed copies, electronic submissions accepted, fee proposal in separate envelope)?

Response: See response to question number 6 and 7.



**CONTRACT NO.** Click here to enter text.

**BETWEEN**

**CHATHAM AREA TRANSIT AUTHORITY**

**AND**

Click here to enter text.

This Contract (“Contract”) is made and entered into as of the Effective Date of \_\_\_\_\_, hereinafter set out by and between Chatham Area Transit Authority, (hereinafter “CAT”), located at 900 E. Gwinnett Street, Savannah, Georgia, 31401 and \*\*\* (hereinafter “Contractor”), located at \*\*\*\*. The Services required by CAT in this Contract are to be rendered for the project stated in RFP \*\*\*\*\* and below in the Statement of Work.

**RECITALS**

WHEREAS, Contractor responded to a Request for Proposal (RFP) to provide RFP 2023-01 \*\*\*\*\*;

WHEREAS, Contractor represented that its proposed services and/or goods shall meet or exceed the requirements and specifications of the RFP;

WHEREAS, the Contract Documents shall include:

1. Contract No. 2023-01 which shall include any amendments, documents, and exhibits referenced in the Contract (collectively the “Contract”)
2. Scope of Services which is incorporated herein by reference as Exhibit A
3. Request for Proposal No. RFP 2023-01 \*\*\*\*\* (“RFP”), which is incorporated herein by reference as Exhibit B
4. Contractor’s Proposal dated \*\*\*\*\* and submitted in response to the RFP (“Contractor’s Proposal”), which is incorporated herein by reference as Exhibit C.

WHEREAS, the Parties agree that in the event of conflicting provisions 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,
4. The RFP, and
5. The Contractor’s Proposal

In the event of any conflict, ambiguity, or inconsistency between or among any Contract Documents have 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 precedent except where they irreconcilably conflict with a higher priority document.

WHEREAS, CAT is authorized to enter into this Contract

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements stated herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, CAT and the Contractor agree as follows:

## **I. STATEMENT OF WORK**

1.0 Contractor shall perform all services and provide all deliverables identified in this Contract and the Scope of Work, attached hereto as Exhibit A. All work under this Contract shall be performed in accordance with the normal degree of care and skill of other reputable consultants providing similar services on similar projects of like size and nature at the same time and in the same locale as this project.

## **II. CONTRACT TERM**

2.0 The term of this Contract shall be as follows: Contract Start Date: \_\_\_\_\_, 2022 ; Contract End Date: \_\_\_\_\_, 2022\*. This Contract may be terminated earlier by final completion of the Services by Contractor and acceptance of the services by CAT or through the termination provisions in Sections IX and X of this Contract. This Contract may be extended by all the required parties according to these terms with a properly executed amendment to this Contract

## **III. PURCHASE PRICE/DELIVERY**

3.0 The value of this Contract is \$\*\*\*\*. Contractor will submit Payment Requests to CAT in accordance with this fixed rate. This fixed rate cannot be modified except by written agreement of the parties. Violation of this provision by the Contractor shall constitute a material breach of this Contract.

3.1 Each Payment Request shall constitute Contractor's representation that the quantity and quality of services has reached the level for which payment is requested, and that the deliverables and services strictly comply with this Contract. Additionally, each Payment Request shall constitute Contractor's affirmative representation and warranty that all services for which CAT has previously paid are free and clear of any lien, claim, or other encumbrances whatsoever. Furthermore, Contractor hereby warrants, represents, and agrees that, upon payment of each and every Payment Request submitted, the title to all work, documents, and services included in such payment shall be vested in CAT. Upon receipt of the Payment Request, CAT or CAT's Representative shall review the Payment Request and may also review the work at the Project site or elsewhere to determine whether the quantity and quality of the work, goods and/or the services are as represented by the Payment Request and are as required by this Contract. CAT's Representative shall approve the amount which, in the opinion of CAT's Representative, is properly owing to the Contractor. Such approval of the Contractor's Payment Requests shall not preclude CAT from the exercise of any of its rights as set forth below.

- A. When payment is received from CAT, the Contractor shall within thirty (30) calendar days pay all subcontractors and suppliers the amounts they are due for the work covered by such payment. In the event CAT is informed that the Contractor has not paid a subcontractor or supplier as provided herein, CAT shall have the right, but not the duty, to issue further checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and any such subcontractor or supplier as joint payees. Such joint check procedure, if employed by CAT, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit CAT to repeat the procedure in the future.
- B. Neither payment to the Contractor, nor utilization of the Project for any purpose by CAT, nor any other act or omission by CAT shall be interpreted or construed as an acceptance of any goods or services of the Contractor not strictly in compliance with this Contract.
- C. CAT shall have the right to refuse to make payment and/or, if necessary, make demand for the return of a portion or all of the amount previously paid to the Contractor due to:
- i. The quality of a portion, or all, of the Contractor's goods or services not being in accordance with the requirements of this Contract;
  - ii. The quantity of the Contractor's goods or services not being as represented in the Contractor's Payment Request or otherwise;
  - iii. The Contractor's rate of progress being such that, in CAT's opinion, Initial Testing and Acceptance, Operational Acceptance, or final completion, or all, may be inexcusably delayed;
  - iv. The Contractor's failure to use Contract funds, previously paid to the Contractor by CAT, to pay Contractor's Project-related obligations including, but not limited to, obligations to subcontractors, and suppliers;
  - v. Claims made, pending, or known against CAT or its property in relation to this Contract by reason of the acts or omissions of the Contractor or any of its subcontractors;
  - vi. Loss caused by the Contractor; or the Contractor's failure or refusal to perform any of its obligations to CAT.

In the event that CAT makes written demand upon the Contractor for amounts previously paid by CAT, the Contractor shall promptly comply with such demand.

- D. If within sixty (60) days from the date payment to the Contractor is due, CAT, without cause or basis hereunder, fails to pay the Contractor any amount then due and payable to the Contractor, the Contractor shall have the right to cease work until receipt of proper payment after first providing ten (10) days written notice to CAT of the Contractor's intent to cease work.

#### **IV. UNETHICAL PRACTICES, REGISTRATIONS, CERTIFICATIONS**

4.0 This contract is awarded to a reliable and dependable contractor and subcontractors. Contractors and subcontractors found guilty of unethical, irresponsible business practices will be suspended and debarred from conducting future business with CAT and the Government.

4.1 Contractors and subcontractors must maintain up-to-date licenses, Central Contractor Registration (CCR), DUNS number, or other registration databases that may be required. Contractor must submit certification of any DBEs participating on this project.

#### **V. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES/GUARANTEES**

5.0 Contractor represents and guarantees that: it is a limited liability partnership duly organized, validly existing, and in good standing under the laws of its state of domicile, and has full corporate power and authority to execute, deliver and perform its obligations under this Contract, the instruments attached hereto, and any other agreements and instruments contemplated by this Contract. Contractor has all requisite corporate power and authority to own its properties, inventory, equipment, and assets, including the work (as defined herein), and to conduct its business as now conducted. Contractor is qualified to do business in all jurisdictions where it is required to do so and has all necessary licenses, permits and authorizations required to carry out Contractor's business and that any individuals who perform services on behalf of Contractor have all necessary licenses and authorizations require to perform services.

5.1 Contractor represents and guarantees that: the execution and delivery of this Contract, the instruments attached hereto, and the other agreements and instruments contemplated by this Contract have been duly authorized by all necessary actions of Contractor and by anyone else whose approval or authorization is required. Upon execution and delivery, this Contract, the instruments attached hereto, and the other agreements and instruments contemplated by this Contract will be legal, valid and binding obligations of Contractor, enforceable against it in accordance with their respective terms.

5.2 Contractor represents and guarantees that: the terms of this Contract, the instruments attached hereto, and the other agreements and instruments contemplated by this Contract will not: (i) violate any provisions of any of Contractor's Charter, Bylaws or other organizational documents; (ii) violate any provision of law or any order, judgment or decree of any court or other governmental or regulatory agency or authority applicable to Contractor; (iii) violate or result in a breach of, an acceleration under, or constitute (with due notice or lapse of time or both) a default under, any contract, lease, loan agreement, mortgage, security agreement,



or other agreement or instrument to which Contractor is a party or by which it is bound or to which any of Contractor's properties, inventory, or assets is subject, which would prevent Contractor from transferring any of the goods/services in the manner and as contemplated by and in accordance with the terms and provisions of this Agreement; or (iv) result in the imposition of any liens or restrictions on Contractor's business or any properties and inventory (including goods/services) thereof.

5.3 Contractor represents and guarantees that: there is no pending or threatened litigation against or relating to Contractor which could materially or adversely affect the goods or services which are the subject of this Contract.

5.4 Contractor represents and guarantees that: there is not now and will not be at the delivery of the goods or services to CAT any damage, destruction or loss not covered by Contractor's insurance which could materially or adversely affect the goods or services, it being expressly agreed that the risk of loss of said goods or services shall remain with Contractor until acceptance of the delivery of said goods or services after final inspection is made by CAT.

5.5 Contractor represents and guarantees that: Contractor shall have and convey at delivery good and marketable title to all of the goods/services free and clear of all liens, claims, pledges, security interests and encumbrances.

5.6 Contractor represents and guarantees that: it will comply with all laws.

5.7 Contractor represents and guarantees that: it will give any notices required prior to the transfer of the goods/services to CAT.

5.8 The foregoing representations and warranties/guarantees of Contractor are made with the knowledge and expectation that CAT is placing complete reliance on such representations and warranties/guarantees in entering into this Agreement and the same shall survive the delivery and acceptance of the goods/services to and by CAT.

## **VI. TAXES**

6.0 CAT shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to CAT.

## **VII. COPYRIGHT, TRADEMARK, SERVICE MARK, OR PATENT INFRINGEMENT**

7.0 Contractor shall have the duty, and shall, at its own expense, defend any claim or suit which may be brought against CAT to the extent that it is based on a claim that the products or services furnished by Contractor infringe a copyright, trademark, service mark, or patent. The Contractor shall have sole discretion in selecting counsel. Contractor shall further indemnify and hold harmless CAT against any damages, costs, loss, or expenses, including attorneys' fees and expenses incurred by CAT as a result of any such claim or suit. CAT shall provide Contractor

immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority to enable Contractor to do so. No costs or expenses shall be incurred for the account of CAT without its written consent. CAT reserves the right to participate in the defense of any such action. Contractor shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon CAT unless approved by CAT's Board.

7.1 If the products or services furnished under this contract are likely to or do become the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:

- A. Procure for CAT the right to continue using the products or services.
- B. Replace or modify the alleged infringing products or services with other equally suitable non-infringing products or services that are satisfactory to CAT.
- C. Remove the products or discontinue the services and cancel any future charges pertaining thereto. Contractor, however, shall not be permitted to exercise this option until Contractor and CAT have determined that options of 7.1(A) & (B) are impractical.

7.2 Contractor shall have no liability to CAT if any such infringement or claim thereof is based upon or arises out of:

- A. The use of the products or services in combination with apparatus or devices not supplied or otherwise approved by Contractor.
- B. The use of the products or services by CAT in a manner for which the products or services were neither designated nor contemplated.
- C. A claimed infringement of intellectual property in which CAT has any direct or indirect interest by license or otherwise, separate from that granted herein.

## **VIII. ASSUMPTION OF RISK**

8.0 Contractor expressly and voluntarily assumes all risks to persons (including but not limited to death, personal injury and disease) and risks of loss or damage to property to which Contractor, its employees, subcontractors, and their employees, and/or any of their property is or may be exposed while being in or on CAT's Premises, except that Contractor makes no assumption of risk to persons or property actually and proximately caused by the sole negligence of CAT in areas or premises designated for Contractor access.

## **IX. TERMINATION**

9.0 CAT may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in CAT's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to CAT. If the Contractor has any property in its possession belonging to CAT, the Contractor will account for the same, and dispose of it in the manner CAT directs.

9.1 If the Contractor does not produce deliverables in accordance with the contract delivery schedule, or, if the Contractor fails to perform services in the manner called for in the Contract, or if the Contractor fails to comply with any other provisions of the Contract, CAT may terminate this contract for default. Termination shall be effected by serving a written notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor shall promptly submit its termination claim to CAT for payment. The Contractor will only be paid the contract price for goods delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

9.2 If it is later determined by CAT that the Contractor had an excusable reason for not performing, such as a man-made disaster, fire, or flood, which is not the fault of or is beyond the control of the Contractor, CAT may set up a new delivery or performance schedule, and may allow the Contractor to continue work, or treat the termination as a termination for convenience.

9.3 In the event of breach or default by the Contractor, CAT shall be entitled to all of its damages and reasonable expenses, and its costs to include, but not limited to its reasonable attorneys' fees incurred because of such default.

9.4 CAT in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to CAT's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from CAT setting forth the nature of said breach or default, CAT shall have the right to terminate the Contract immediately without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude CAT from also pursuing all available remedies against Contractor and its sureties for said breach or default.

9.5 In the event CAT elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by CAT shall not limit CAT's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

## **X. TERMINATION DUE TO FUNDING**

10.0 Should funding for this Contract be discontinued, reduced, or delayed, in whole or in part, CAT shall have the right to terminate this Contract immediately upon written notice to Contractor. However, in such circumstance, Contractor shall be entitled to payment for work performed and/or non-returnable goods delivered to the date of the notice of termination.

## **XI. MAINTENANCE OF RECORDS**

11.0 Contractor shall maintain documentation for all charges against CAT. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of seven (7) years following the date of final payment by CAT and will be subject to audit, at any reasonable time and upon reasonable notice by CAT or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.

11.1 Said records shall be made available for inspection by authorized representatives of CAT, the U.S. Department of Transportation, the Comptroller General of the United States of the U.S. General Accounting Office, the Georgia State Attorney General's Office, and the Georgia Department of Transportation during regular working hours at the Contractor's place of business. Records pertaining to appeals under dispute or to litigation or to the settlement of claims arising under or relating to the performance of the Contract shall be made available for seven (7) years after contract implementation or until disposition of the appeals, litigation, or claims, whichever is later.

11.2 The Contractor shall include, or cause to be included, the requirements of this article in all subcontracts of any tier.

## **XII. MODIFICATION OF CONTRACT**

12.0 This contract may be modified only by written amendment executed by all parties and their signatories hereto.

## **XIII. PARTNERSHIP/JOINT VENTURE**

13.0 Nothing herein is intended, nor shall be construed, to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. It is expressly agreed and understood between the parties that the Contractor is an independent contractor to CAT and as such shall be viewed in law and equity as an independent contractor. No vicarious liability shall be imposed upon CAT, its employees, officers, or Board members by any action of the Contractor in the performance of this Contract nor shall the doctrine of *respondeat superior* be applicable to CAT, its employees, officers, or Board members through this Contract. None of the parties hereto shall represent or hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.

## **XIV. NON-WAIVER**

14.0 No waiver of any provision of this Contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

## **XV. EMPLOYMENT DISCRIMINATION PROHIBITED**

15.0 The Contractor and its subcontractors are prohibited from discriminating against any individual due to race, creed, color, national origin, age, sex, or reasonably accommodated disability and from violating any applicable laws concerning the employment of individuals with disabilities. It is the policy of CAT not to discriminate on the basis of age, race, sex, color, national origin, or reasonably accommodated disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services and activities. With regard to all aspects of this Contract, Contractor certifies and warrants it will comply with this policy and will include this policy in all subcontracts.

## **XVI. INSURANCE & BONDS**

16.0 Contractor shall maintain Commercial General Liability insurance covering all operations by or on behalf of Contractor arising out of or connected with this Contract providing insurance for bodily injury, property damage, personal injury and advertising injury, with limits of not less than \$1,000,000.

## **XVII. CONTINGENT FEES**

17.0 Contractor hereby represents that it has neither retained, nor been retained by, any persons to solicit or secure any CAT contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this paragraph is, in addition to a breach of this Contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under CAT or Government contracts.

## **XVIII. GRATUITIES AND KICKBACKS**

18.0 It shall be a breach of ethical standards, and this contract, for any person to offer, give or agree to give any employee or former employee of CAT, or for any employee or former employee of CAT to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefor. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under CAT or Government contracts.

## **XIX. INDEMNIFICATION**

19.0 Contractor shall indemnify, defend, and hold harmless CAT and its officers, directors, and employees from and against all allegations, claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorneys' fees and costs) to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Contractor or other persons employed or utilized by the Contractor in the performance of this Agreement. It is not the intent of this provision to require Contractor to indemnify, hold harmless, insure, and defend Indemnitees from and against any liability or claims damages, losses, or expenses for personal injury (including death) or property damage, including attorney's fees and expenses of litigation, caused by or resulting solely from the negligence, recklessness, or intentionally wrongful conduct of CAT.

19.1 The parties do not intend for this indemnity provision to limit either party's remedies against the other for breach of contract, and this provision does not intend for this indemnification provision to require the Contractor to indemnify the Authority for claims for attorney's fees and expenses of litigation asserted by the Authority against the Contractor for the Contractor's alleged breach or default under the terms of this Contract, unless the Contractor is determined by a court of competent jurisdiction to be liable to the Authority and the Authority's recovery of attorney's fees and litigation expenses is otherwise permitted by applicable law.

19.2 Contractor acknowledges that it is prohibited under the Laws of Georgia for a governmental entity to indemnify Contractor for any loss arising out of the provisions of this Contract. Accordingly, CAT does not make any indemnification to Contractor whatsoever under this Contract.

## **XX. REMEDIES**

20.0 The remedies set forth in this Contract shall be cumulative, and no one remedy shall be construed as exclusive of any other or of any remedy provided by law, and the failure or delay of any party to exercise any remedy at any time shall not operate as a waiver of the right of such party to exercise any remedy for the same or subsequent default at any time thereafter.

20.1 Dispute Resolution – The parties agree to make a reasonable effort to informally resolve, among themselves and with the assistance of CAT's Representative, disputes that may arise during the performance of this Contract in a timely, professional and non-adversarial manner. In an effort to limit any disputes, the parties agree to periodically meet and evaluate the progress of performance under this Contract. Any agreements reached by the parties utilizing these informal dispute resolution procedures are not binding unless the agreement is contained in an amendment to the Contract that is executed in the same manner and with the same formalities as this Contract. CAT and the Contractor may exercise such rights or remedies as either may otherwise have with respect to any dispute. Nothing in this provision shall create any right of either party to alternative dispute resolution, mediation, or arbitration

## **XXI. NOTICES**

21.0 All notices, requests, demands or other communications hereunder shall be in writing and be delivered to the parties as stated below.

Notices to CAT: Chatham Area Transit Authority  
Attn: Executive Director  
900 East Gwinnett Street  
Savannah, GA 31401

Notices to Contractor: \*\*\*\*  
\*\*\*\*  
\*\*\*\*  
\*\*\*\*

21.1 Written communications shall make reference to the Contract number and shall be mailed to the above address. Notices required or permitted under this Contract shall be deemed delivered upon hand delivery to Contractor or Contractor's designated representative, or to CAT's Contracting Officer or CAT's Representative, as the case may be, or upon deposit of the same in either U.S. Certified Mail – Return Receipt Requested or recognized express courier or delivery service, properly addressed to Contractor, or to CAT's Contracting Officer, as the case may be.

## **XXII. MISCELLANEOUS**

22.0 Should Contractor be unable to timely fulfill a particular task associated with this contract, CAT may obtain this task from another qualified source.

22.1 This Contract shall be governed by, enforced and interpreted in accordance with the laws of the State of Georgia, without regard to laws concerning conflict or choice of laws.

22.2 Unless specifically provided otherwise in this Contract no amendment, modification, termination or attempted waiver shall be valid unless it is in writing and signed by the parties hereto.

22.3 This Contract and the instruments attached hereto set forth the entire agreement between the parties with respect to the subject matters thereof, as they existed at the date of this Contract, and it is agreed and distinctly understood that all previous communications and negotiations between the parties, whether verbal or written, not contained herein or in the instruments attached hereto or incorporated herein are hereby merged into this Contract and thereby annulled.

22.4 Contractor shall comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of Contractor and shall obtain any permits or licenses necessary for its operations. Contractor shall not take any action in violation of any applicable legal requirement that could result in liability being imposed on CAT.

22.5 The terms of this Contract shall control over any conflicting terms in any referenced agreement or document.

### **XXIII. ATTORNEY FEES**

23.0 Contractor agrees that, in the event either party takes legal action to enforce any provision of the Contract, or to obtain a remedy for any breach of this Contract, and in the event CAT prevails in such action, Contractor shall pay all expenses of such action incurred at any and all stages of the litigation, including costs and reasonable attorney fees and expenses for CAT.

### **XXIV. ASSIGNMENT – CONSENT REQUIRED**

24.0 Except as provided in paragraph 24.1 below, this Contract, the instruments attached hereto or incorporated herein, and/or the rights and obligations set forth herein or in such instruments are not assignable without the prior written consent of the parties hereto, which consent may be granted or withheld by a party in its sole discretion. This Contract shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, successors and permitted assigns.

24.1 Any public agency (i.e., city, district, public authority, public agency, municipality, and other political subdivision or any FTA-funded entity) may be allowed to participate in the procurement opportunities contemplated by and available under this Contract (“piggyback”) at the same prices, terms, and conditions. CAT reserves the right to assign any portion of the goods/services procured or available under this Contract including option quantities. This assignment, should it occur, shall be agreed to by CAT’s Executive Director and the Contractor. Once assigned, each agency will enter into its own contract and be solely responsible to the Contractor for obligations regarding the goods/services assigned. CAT’s right of assignment will remain in force during the term or until completion of this Contract, to include options, whichever occurs first. CAT shall incur no liability or financial responsibility in connection with contracts issued by another public agency. Such other public agency shall accept sole responsibility for placing orders or payments to the Contractor.

### **XXV. FORCE MAJEURE**

25.0 No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.



## **XXVI. VENUE**

26.0 Any action between the parties arising from this Contract shall be maintained in the courts of competent jurisdiction of Chatham County, Georgia.

## **XXVII. SEVERABILITY**

27.0 Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract, which shall be enforced to the maximum extent valid and enforceable.

## **XXVIII. EFFECTIVE DATE**

28.0 This contract shall not be binding upon the parties until it has been signed first by the Contractor and then by the authorized representatives of CAT. When it has been so signed and filed, this Contract shall be effective as of the date first written above.

## **XXIX. COUNTERPARTS**

29.0 This Contract may be executed in one or more identical counterparts, each of which shall be deemed to be an original for all purposes, and all of which taken together shall constitute a single instrument.

## **XXX. CAT PROPERTY**

30.0 Any CAT property, including but not limited to books, records, and equipment that is in Contractor's possession shall be maintained by Contractor in good condition and repair, and shall be returned to CAT by Contractor upon termination of this Contract. All goods, documents, records and other work product and property produced during the performance and as a consequence of this Contract are deemed to be CAT property.

## **XXXI. CONTRACTING OFFICER & NOTICE**

31.0 CAT's Contracting Officer is the individual with the delegated authority to administer this Contract on behalf of CAT. The Contracting Officer is solely responsible for authorizing services by issuing written orders, and for making any changes to the scope of services, schedule or other contractual terms and conditions by written Contract Modification. No oral representations of any nature form the basis of or may amend this Contract.

31.1 The Contracting Officer may delegate certain specific responsibilities to its authorized CAT's Representative.

31.2 This Contract will be administered by:  
For CAT: Victor Colon  
900 E. Gwinnett St.  
Savannah, GA 31401  
912-651-0453  
[victor.colon@catchacat.org](mailto:victor.colon@catchacat.org)

For Contractor: \*\*\*\*\*

**XXXII. PUBLICATION AND MEDIA RESTRICTIONS**

32.0 The Contractor shall not publish or reproduce subject data in whole or in part, or in any manner or form, without the advance written consent of CAT, unless CAT has released or approved the release of that data to the public.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed on the date and year first above written.

**CHATHAM AREA TRANSIT AUTHORITY**

By: \_\_\_\_\_  
Faye DiMassimo  
CEO/Executive Director

By: \_\_\_\_\_  
Name:  
Its:

**EXHIBIT A**

Scope of Services

**EXHIBIT B**

**RFP**

**EXHIBIT C**

**CONTRACTOR'S PROPOSAL**