



January 16, 2024

Department of Transportation  
600 West Peachtree Street, NW, 7th Floor  
Atlanta, GA 30308

Attn: Maria L. Roux  
Asst. Chief Procurement Officer-QA Compliance  
Georgia Department of Transportation  
Office of Procurement

**RE: The City of Powder Springs is requesting to be moved from CONDITIONAL approval to FULL approval**

The City of Powder Springs affirms that all staff listed in the submitted Letter of Agreement have attended, passed training and understands that any future staff who will participate in soliciting, facilitating evaluations, conducting negotiations and contract administration must attend and pass procurement training prior to participating in any of the processes associated with procuring, managing, and administering engineering and design consultant services when Federal Aid Highway Program (FAHP) funds are utilized.

*The below confirmation of understanding is initialed and signed by the Mayor who is responsible for authorization of funds should payment become necessary, following approval of the City Council.*

**Confirmation Of Understanding:**

The Mayor's initials below confirm understanding and agreement to follow all policies and procedures related to the procurement of engineering and design as per 23 CFR 172.

**The City of Powder Springs agrees with and confirms:**

Av.1 It has read and understand all rules, regulations and policies and procedures associated with engineering and design procurement:

- 23 CFR Part 172 Procurement, Management and Administration of Engineering and Design Related Services; Final Rule

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- 2 CFR Chapter I, and Chapter II, Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule
- 40 U.S.C. 1101-1104 Selection of Architects and Engineers “**The Brooks Act**”
- 48 CFR Part 31 – Contract Cost Principles and Procedures
- Repayment of Preliminary Engineering Cost (Order 2020.1)
- FHWA Policy for Contractor Certification of Costs in Accordance with Federal Acquisition Regulations (FAR) to Establish Indirect Cost Rates on Engineering and Design-related Services Contracts Order No. 4470.1A
- O.C.G.A. 50-22-1 through 50- 22-9
- GDOTs DBE program

A.T. The understanding of Qualification Based Selection 23 CFR 172.7(a)(1) and that price may **NEVER** be used as a selection factor or consideration in the selection process.

A.T. That *if* it has adopted GDOTs policies and procedures as outlined in the manual and discussed in class that it will follow all policies and procedures unless exceptions have been requested and approved. The City of Powder Springs agrees with and confirms that while exceptions may be requested for best practices, exceptions to regulatory requirements will not be considered.

A.T. That it will comply with all provisions of 23 CFR 172.5(b) including developing and sustaining organizational capacity and provide the resources necessary for the procurement, management and administration of engineering and design related consultant services.

A.T. That it will comply with all provisions of 23 CFR 172.9(d)(1) by assigning a full-time, public employee as the Responsible Charge who will fulfill inherently governmental activities which include, at a minimum, contract negotiation; contract payment; evaluation of contract compliance, performance, and quality; familiarity with contract requirements and scope; scheduling and attending progress and project review meetings; ensuring costs billed are allowable in accordance with federal cost principles; ensuring costs are consistent with contract terms; evaluating and participating in decisions for contract modifications; documenting contract monitoring activities; and maintaining supporting contract records in accordance with 2 CFR 200.333.

A.T. That only individuals who have attended GDOT’s training and passed the test on Procurement, Management, Administration of Engineering & Design Related Services will serve in a role which is decision making and/or which is involved in fulfilling any of the roles necessary in order to complete the full procurement cycle.

## **Prequalification**

### **The City of Powder Springs agrees with and confirms:**

A.T. The understanding of GDOT’s prequalification process and its purpose as related to federally funded engineering and design related services.

- A.T. That all solicitations will specify the unique required area classes for the Prime Consultant as well as the Team (which includes the Prime and all Sub-Consultants) to ensure appropriate responses on all federally funded projects utilizing federal funds.
- A.T. The prequalification certificates will be required in the solicitation to be submitted for the Prime and all Team to verify awarded consultant meets all required area classes and has current prequalification.

## Development

### The City of Powder Springs agrees with and confirms:

- A.T. Scope(s) of services will be drafted with as much detail (which makes it clear, complete and logical) as possible and organized in the order in which services will be completed.
- A.T. Understanding that the level of detail required in the scope will be determined by the contract type. On-Call and Multi-Phase Project Specific contracts can have more generic and all-inclusive scopes however, project specific contracts must include all services necessary to complete the entire project.
- A.T. It will not require the Prime Consultant to be pre-qualified in excessive area classes which could be covered by the team and recognizes that doing so would limit competition and risk not meeting the requirement in 23 CFR 172.7(a)(1)(iv)(D) of the minimum of three responses.
- A.T. Solicitations will ensure that area classes and scope are related and that there is associated scope for every area class required.
- A.T. Area Classes and/or Scope which is not included in the Solicitation prior to its closing are not eligible to be added later.
- A.T. Solicitations will identify the Project Manager and Key Team Roles for which resumes must be submitted to allow the Selection Committee to evaluate qualifications in order to determine the most qualified team in accordance with the allowable Qualification Based Selection (QBS) Selection Criteria.
- A.T. The understanding of the three procurement methods used in procuring engineering and design services. 23 CFR 172.7(a) – Qualification Based Selection, Small Purchases, and Noncompetitive.
- A.T. The understanding of the three contract types used in procuring engineering and design services. 23 CFR 172.9(a) – Project Specific; Multi-Phase Project Specific; Indefinite-Delivery Indefinite Quantity (On-Call)
- A.T. The understanding of the payment method(s) associated with engineering and design procurements. 23 CFR 172.9(b) – Cost Plus Fixed Fee; Lump Sum; Cost Per Unit of Work; Specific Rates of Compensation
- A.T. Each Solicitation will indicate contract and payment types.
- A.T. Each Solicitation will include the selection criteria and associated weights in solicitation.
- A.T. Each Solicitation will include only qualification based selection criteria which are allowable in accordance with 23 CFR 172.7(1)(1)(iii) – Technical Approach; Work Experience; Specialized Expertise; Professional Licensure; Staff Capabilities; Workload Capacity; Past Performance.
- A.T. Each Solicitation will include only non-qualification based selection criteria which are allowable in accordance with 23 CFR 172.7(1)(1)(iii)(D) – Local Presence and Participation of Disadvantaged Business Enterprises.

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A.T. Non-Qualification Based Criteria cannot exceed ten (10) percent of the overall evaluation as outlined in 23 CFR Part 172.7(a)(1)(iii)(D).

A.T. DBE goals must be consistent with GDOT's current DBE goal or must be approved in advance by GDOT's Office of Equal Employment Opportunity (EEO) for the utilization of Federal-Aid Highway Program Funds.

### **Advertisement 23 CFR 172.7(a)(1)(i)**

#### **The City of Powder Springs agrees with and confirms:**

A.T. It has published the solicitation as required by state law to the Georgia Procurement Registry.

A.T. Understanding of the State of Georgia requirement to post solicitation in two (2) phases and understands posting time frames of a minimum of 15 days for Phase 1 (in accordance with O.C.G.A. 50-22-3) and a minimum of 14 days for Phase 2 (for the Technical Approach in accordance with 23 CFR 172.7(a)(1)(ii)(G))

A.T. If adopting GDOT policies and procedures, it understands posting requirements of GDOT.

A.T. That all posting requirements will be met.

A.T. It can provide link to the Georgia Procurement Registry for all federally funded procurements for engineering and design services for the last three (3) years.

A.T. Solicitation Posting will identify the appropriate NIGP codes to obtain adequate competition – minimum of 31842-Engineering Consulting; 91843-Environmental Consulting; 91896-Transportation Consulting; 92513-Bridge Engineering; 92517-Civil Engineering; 92533-Professional Engineer Services; 92535-Environmental Engineering; 92536-Engineering Services.

### **Evaluation 23 CFR 172.7(a)(1)(iii) - 23 CFR 172.7(a)(1)(iv)**

#### **The City of Powder Springs agrees with and confirms:**

A.T. It understands the role and responsibilities of the Selection Committee.

A.T. All members of the selection committee are qualified as per FAR 36.602-2

A.T. All selection committee members have been provided with training and instructions on how to provide scores and comments.

A.T. Evaluations will be conducted in two (2) phases.

A.T. Phase 1 evaluations will result in the shortlist to begin Phase 2.

A.T. Individual scores *and* comments will be documented for Phase 1, unless the Selection Committee discusses all firms and Selection Committee comments and Scores are provided for all Respondents.

A.T. Phase 1 *and* Phase 2 selection committee meetings will be held and will be documented with Phase 1 and Phase 2 committee scores and comments.

A.T. Upon request, individual and selection committee Phase 1 *and* Phase 2 scores and comments can be provided.

### **Negotiations 23 CFR 172.7(a)(1)(v)**

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**The City of Powder Springs agrees with and confirms:**

- A.T. Professional services contracts and Consultant Services Contracts are to be procured as specified in the Federal Brooks Act, 40 U.S.C 1104(a).
- A.T. It can provide the scope of the contract and a supporting task list to start negotiations.
- A.T. An Independent Estimate, which will include an appropriate breakdown of the work or labor hours, types or classifications of labor required, other direct costs, and consultant's fixed fee, will be completed by a qualified individual as per 23 CFR 172.7(a)(1)(v)(B) and obtained prior to receiving consultants cost proposal and beginning negotiations.
- A.T. That Consultant Cost Proposals will be requested only after completion of the Independent Estimate and that both the Independent Estimate and consultant cost proposal will be available for review upon request.
- A.T. Understanding of the different elements of contract costs which must be considered during negotiations and include the Independent Estimate, Indirect Cost Rates (Overhead), Direct Salary or Wage Rates, Fixed Fee, Other Direct Costs, and Sub-Consultant/Vendor Costs.
- A.T. Understanding of the Process of Negotiations to include scoping meeting between PM and Consultant team, identification of required tasks/preparation of task list, providing task list to consultant team, agency team preparing hours for task list, agency team identifying appropriate labor classes, consultant team preparing hours for task list, consultant team identifying appropriate labor classes, agency and consultant teams sending required documents to negotiator, negotiator reviewing hours and labor classes and determining where differences are greater than 10% variance in hours, holding negotiations meetings to resolve differences, determining the payment method (of those listed in the solicitation as options), applying consultant direct salary/wage rates and indirect costs to determine preliminary costs, negotiating and applying other direct costs, agreeing upon final costs.
- A.T. Understanding of the different elements which may require negotiations.
- A.T. Understanding of the tools which GDOT uses for negotiating and either uses the same or similar tools which provide the same level of information in order to document negotiation activities in accordance with 23 CFR 172.7(a)(1)(v)(E).

**Award**

**The City of Powder Springs agrees with and confirms:**

- A.T. Understanding of the award process including the preparation and approval of the selection package.
- A.T. Understanding and inclusion of all required contract provisions as required by 23 CFR 172.9(c).
- A.T. Understanding and compliance with all of the requirements for preparing and maintaining all award documentation
- A.T. Understanding and compliance with notifications being posted to the Georgia Procurement Registry.

**Contract Administration 23 CFR 172.9**

**The City of Powder Springs agrees with and confirms:**

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A.T. All contract provisions have been included in the contract in accordance with 23 CFR 172.9(c).

A.T. The understanding and compliance with assigning a **Responsible Charge** who is a fulltime, government employee - 23 CFR 172.9(d).

A.T. The understanding and compliance with the requirement for Performance Evaluations in 23 CFR 172.9(d)(2), and that these performance evaluations will be used in making future selection decisions.

A.T. All modifications 23 CFR 172.9(e) made to agreements after execution of contracts will be documented and be provided upon request. All modifications will be in accordance with the solicitation in regards to scope, area classes, contract types, payment methods, etc.

A.T. Any modifications will be negotiated in the same manner and formality as the original agreements.

A.T. Notices to Proceed (NTP) will be issued which will serve to document the first day when work is authorized to begin and when charges are eligible for billing to the project.

A.T. Stop Work Notices will be issued which will serve to document the last day when work is authorized to occur and when charges must cease to the project.

## Additional Confirmation

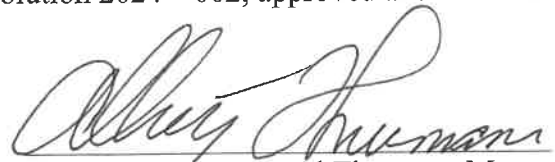
**The City of Powder Springs agrees with and confirms:**

A.T. The understanding of:


- Disadvantaged Business Enterprise (DBE) 23 CFR 172.7(b)(2)
- Suspension and Debarment 23 CFR 172.7(b)(3)
- Conflict of interest requirements 23 CFR 172.7(b)(4)
- Consultant Services in Management Support Roles 23 CFR 172.7(b)(5)

A.T. Please keep in mind this is only for the remainder of the current certification. The City of Powder Springs is still required to complete the procurement portion of the application when recertifying at which time it will either be APPROVED or DENIED based on the application.

Authorized to execute per City of Powder Springs Resolution 2024 – 002, approved and executed January 16, 2024.

  
Al Thurman, Mayor

ATTEST:

  
Kelly Axt, City Clerk