

MACON-BIBB COUNTY, GEORGIA

Request for Professional Services (RPS)

FOR

Concept Development Seventh Street Truck Route Improvements

17-016-CW

913-27

906-46

913-50

925-49

913-95



MACON-BIBB COUNTY

ISSUE DATE: January 17, 2017

DUE DATE: Thursday, February 16, 2017

MBE/WBE/DBE Participation: Minority, Women Owned, and other Disadvantaged Business Enterprises are encouraged to participate in the solicitation process. Additionally, respondents are encouraged to use M/W/DBE sub-consultants where possible. Small and other disadvantaged businesses requiring assistance with the competitive process can contact Dr. James Louis Bumpus, Director of Small Business Affairs at (478) 951-2192 or jbumpus@maconbibb.us

I. GENERAL

A. Invitation

Notice is hereby given that Macon-Bibb County will receive responses to the Request for Professional Services (original **plus 4 copies**) in the Procurement Department, 700 Poplar Street, Suite 308, Macon, Georgia 31201, until **12:00 o'clock NOON** at the time legally prevailing in Macon, Georgia on **February 16, 2017**, for Concept Development Seventh Street Truck Route Improvements for Macon- Bibb County.

NO LATE RESPONSES WILL BE CONSIDERED

The names of responding firms will be publicly read on Thursday, February 16, 2017, at 2:00 P.M. in the Macon-Bibb County Procurement Department Conference Room, located in Suite 308 of the Government Center at 700 Poplar Street, Macon Georgia 31201.

B. Definitions

Wherever the term “Owner”, “County”, or “Macon-Bibb County” occur in this document, it shall mean Macon-Bibb County, a political subdivision of the State of Georgia acting through the Macon-Bibb County Board of Commissioners.

C. Solicitation Documents

Announcement of this Request for Professional Services may also be posted on the Macon-Bibb County website at www.maconbibb.us/purchasing and on the Georgia Procurement Registry website https://ssl.doas.state.ga.us/PRSapp/PR_index.jsp

D. Insurance Requirements

Insurance coverage shall be carried with an insurance company licensed to do business in the State of Georgia. All coverage should be written with insurance company with a Best Rating of A or better. Insurance shall be obtained prior to commencement of work and shall remain in force throughout the period of the contract. Macon-Bibb County shall be named as additional insured on the policy.

Workers' Compensation: Statutory
Errors and Omission: \$1,000,000
General Liability: \$1,000,000

E. Submittals

Responses must be sealed and identified on the outside of the package as and delivered to

1. “17-016-CW – Concept Development Seventh Street Truck Route”

Macon-Bibb County Procurement Department
700 Poplar Street
Suite 308
Macon, Georgia 31201
Telephone: (478) 803-0550

Macon- Bibb reserves the right to reject any and all submissions and to waive technicalities and formalities. Respondents shall carefully read the information contained herein and submit a complete response to all requirements and questions as directed. Submittals and any other information submitted by in response to the RPS shall become the property of Macon-Bibb County.

F. Project Description

**DESIGN PROFESSIONAL SERVICES REQUIREMENTS
FOR TRADITIONAL DESIGN/BID/BUILD PROCESS**

SECTION 1 - GENERAL

PART 1 – PRELIMINARY MATTERS

1.1.1 Project Parameters.

- 1.1.1.1 Objectives/Use. The project is being designed to meet a requirement for the Owner as identified in the Contract.
- 1.1.1.2 Physical Parameters. The project will be constructed on public property of Owner. An A-E Services Statement of Work (SOW) describing the project requirements is included at Exhibit C.
- 1.1.1.3 Owner's Pre-design Study. The Design Professional will design the project in accordance with the Owner's Pre-design Study, if any, as amended, a copy of which is included in Exhibit C and incorporated into and made a part of this document by reference. If no Pre-design Study is available, the Design Professional will design the project in accordance with the Owner's SOW included in Exhibit C.
- 1.1.1.4 Time and Schedule. A Design Schedule, including major milestones for the production of the design and construction documents, as well as the anticipated time required for design is included in the SOW at Exhibit C and is incorporated into and made a part of this Contract by reference. The Design Professional and the Owner agree that the time limits shown in the schedule are reasonable and achievable. Changes in the major milestone dates will require the consent of both parties, which shall not unreasonably be withheld.
- 1.1.1.5 Delays. The Design Professional is responsible for the timely performance of its design and engineering services, but shall not be responsible for delays due to persons or conditions beyond the Design Professional's control. The Design Professional assumes full responsibility for the timely performance of its consultants.

1.1.1.5.1 Delays by Design Professional

If the completion of the design is delayed by reason of ordinary negligence on the part of the Design Professional, the Design Professional shall indemnify the Owner against all reasonable costs, expenses, liabilities, or damages resulting from such delay. In addition, the Design Professional shall provide accelerated services at its own expense to make up time lost because of such delay.

1.1.1.5.2 Delay by the Owner

If the Design Professional is delayed in performance of its services by any act or omission of the Owner, or by changes ordered by the Owner, or by causes beyond the Design Professional's control, or by a delay authorized by the Owner, then Design Professional may request an equitable adjustment of its performance schedule.

1.1.2 Project Team.

- 1.1.2.1 Owner's Authorized Agent. For the purpose of administration of this Contract, the Owner's Authorized Agent is the Owner's Representative. The Owner's Authorized Agent has the right and power to bind the Owner in all project matters, requiring approvals, authorization, written notice and Change Orders.
- 1.1.2.1.1 Designated Representative. For the purposes of performance of this Contract, the Designated Representative of the Owner's Authorized Agent is the Macon-Bibb County Engineer. The Designated Representative shall be fully acquainted with project and provide the Design Professional the information and services required of the Owner and the Owner's Authorized Agent by this contract so as not to delay the services of the Design Professional. The Design Professional shall render all services pursuant to this Contract under the direction and supervision of the Designated Representative.

- 1.1.2.2 Review of Services of the Design Professional. The Design Professional agrees that the Owner is at liberty to engage consultants for the purpose of checking, reviewing, and commenting upon the deliverables provided under this Contract. The Owner is hereby authorized to deliver a certified copy of this Contract to Design Professionals or consultants, or both, as selected by the Owner for the foregoing purposes, and such delivery will constitute the unqualified consent and agreement on the part of the Design Professional and its consultants to the checking, reviewing and commenting upon the deliverables provided under this Contract.
- 1.1.2.3 The Owner's Consultants. If the Owner elects to engage an independent consultant for any reason, the Design Professional agrees to cooperate with such consultant in the professional services provided under this Contract. The Owner will provide a copy of the contract with such consultant to the Design Professional upon a written request from the Design Professional.

1.1.2.4 The Design Professional's Team.

1.1.2.4.1 Design Professional of Record. The Design Professional of Record is the individual identified in the Contract. The Design Professional of Record shall not be changed without written permission from the Owner, unless the Design Professional is incapacitated, is unable to perform, or leaves the firm. In that event, the replacement is subject to approval by the Owner.

1.1.2.4.2 Key Personnel and Consultants. The Design Professional agrees that the Project will be performed substantially with the key personnel and consultants presented at the time of selection. The Design Professional's key personnel and consultants who have been assigned to the Project, along with a description of the role and duties of such personnel are listed in Exhibit M hereof. The Design Professional acknowledges that the Owner has relied upon the designated assignments and roles of the key personnel and consultants in its decision to enter into this Agreement. Without good cause shown, the key personnel and consultants shall remain assigned to the Project throughout the duration of the Project and shall not be changed without the Owner's prior written approval, which approval will not be unreasonably withheld.

1.1.2.4.3 Design Team. The Design Professional represents that it has or will secure at its own expense, all personnel required in the performance of this Contract, except for personnel required to be furnished by the Owner. The Design Professional's personnel shall not be employees of the Owner. The Design Professional further represents that all of the services required hereunder will be performed by the Design Professional or under its supervision, and, as applicable, all personnel so engaged shall be fully qualified and shall be authorized under State or local law to perform such services.

- 1.1.2.5 Change in Business Form. In the event the Design Professional changes its business form, it shall notify the Owner in writing and include appropriate tax identification information. The Owner shall make all future payments in accordance with such notice and a signed amendment to this Contract.
- 1.1.2.6 Acquisition of Consulting Services. The Design Professional shall select, using a qualifications-based selection process, the following:

1.1.2.6.1 Registered Professional Engineers and Other Licensed Consultants. The Design Professional may select registered professional engineers or other licensed consultants to render professional services to the Design Professional.

1.1.2.6.2 Stamp of Registered Professional Engineer or Other Licensed Consultants. The Design Professional agrees that all drawings and specifications for engineering services shall be performed by registered professionals in its own organization, or the Design Professional agrees to employ without additional cost to the Owner, the services of registered professionals regularly engaged in delivering such professional services. Design documents so prepared shall bear the stamp of responsible registered professionals licensed in the State of Georgia.

1.1.2.6.3 Geotechnical Engineer. The Design Professional may select a licensed geotechnical engineer, as necessary to accomplish the project requirements without additional cost to the Owner

1.1.2.6.4 Other Consultants. Without diminishing its duties hereunder, but to assist the Design Professional in performing its services, the Design Professional may select other consultants to render professional services to the Design Professional

1.1.2.6.5 Incorporation of Terms in Consultant Contracts. The Design Professional agrees to incorporate all of the material provisions of this Contract into each Consultant Contract, and that failure to accomplish such incorporation by an express provision in each Consultant Contract is a breach of an essential covenant of this Contract. In the event of such breach the Design Professional shall, within five (5) calendar days after demand of the Owner, furnish proof in writing that the deficiency has been remedied to the end that no subcontractor or consultant may maintain that it has not assumed toward the Design Professional all the obligations and responsibilities that the Design Professional has assumed toward the Owner.

1.1.2.7 Notification of Design Professional's Consultants. As soon as practicable after award of the Contract, the Design Professional shall furnish in writing to the Owner the names of persons or entities proposed to be consultants on the Project not previously selected under Subparagraph 1.1.2.4.3. The Owner will promptly reply to the Design Professional in writing stating whether or not the Owner, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner to reply within fifteen calendar days shall constitute notice of no reasonable objection. A list of consultants and key personnel that will be retained by the Design Professional for the Project (along with a description of their respective role or services), and that have been pre-approved by the Owner, as of the date of this Contract, is attached hereto as Exhibit M. All consultants shall be duly licensed pursuant to any applicable requirements and regulations of the State of Georgia. The Design Professional shall not, without good cause and only after obtaining the approval of the Owner, change a consultant (or its role or services) previously selected. The Design Professional shall be responsible to the Owner for the acts of, and services provided by, its consultants. The Owner's review, approval, or rejection of consultants or their respective proposal or contracts, will not relieve the Design Professional of its responsibilities under the Contract, nor will it relieve the Design Professional of its responsibilities for the acts or omissions of such consultants.

1.1.2.8 Coordination. The Design Professional shall coordinate all the services of all design consultants for the project. The Owner shall require a reciprocal coordination clause in each of its separate consultant contracts.

1.1.3 Project Team Cooperation, Partnering.

1.1.3.1 Concept. It is the Owner's expectation that the Program Manager, if any, the Design Professional, the Owner, Owner-retained consultants, any Separate Contractors and the CM, if any, shall work as a project team to effect the commencement of and completion of the project in accordance with the Contract Documents. By its various contracts with the other parties, the Owner will require that each team member communicate with all other team members to encourage and facilitate overall coordination, cooperation and efficiency, and cooperate fully with and coordinate fully with each other team member in order to achieve project completion in an expeditious and economical manner. The CM, if any, in consultation with the other team members, shall schedule regular meetings of the key principals of the project team in an effort to solve problems in a partnering atmosphere to facilitate the ability of each team member to meet its business objectives, so long as consistent with the successful completion of the Project, in real time. It is the Owner's intent that all consensus decisions of the team, where differing from the Contract Documents, be reduced to writing in an appropriate Change Order or amendment or modification.

1.1.3.2 Conference. Promptly after the execution of the Design Contract, the Design Professional shall confer with the Owner, and the Program Manager (if any), to identify personnel and relevant organizational charts of each team member firm, and to establish working relationships with each team member.

1.1.4 The Design Contract's General Requirements.

A copy of the SOW for the design contract is attached hereto as Exhibit C and is incorporated herein by reference. If the Owner includes Construction Management services in the Contract, the Design Professional shall perform the construction management duties in this Contract and all of the duties of the Design Professional called for in the SOW.

1.1.5 Insurance.

1.1.5.1 Insurance Provisions. From insurers authorized to provide the required insurance in Georgia, the Design Professional shall provide the following kinds of insurance in the minimum amount of coverage set

forth below, to cover all loss and liability for damages on account of bodily injury, including death there from, and injury to or destruction of property caused by or arising from any and all operations carried on and any and all work performed by the Design Professional under this Contract. Within ten (10) calendar days after execution of the Contract and during the entire period of the Design Professional's responsibility under the Contract, the Design Professional shall maintain professional liability insurance for claims arising from the negligent performance of professional services under this contract as provided herein. The Design Professional shall file with the Owner a certificate of insurance from an insurance company rated at least A- by Best's and licensed to do business in the State of Georgia showing evidence of insurance as follows:

1.1.5.1.1 Worker's Compensation and Employer's Liability. Statutory coverage; Employer's liability in the minimum amount of \$1,000,000 per occurrence;

1.1.5.1.2 Commercial General Liability Insurance. Commercial General Liability Insurance of at least \$1,000,000 per occurrence, including Automobile Comprehensive Liability Coverage to cover vehicles, owned, leased or rented by Design Professional. The Design Professional shall require its consultants to maintain Commercial General Liability insurance with business automobile liability coverage with companies and limits as stated above. The Commercial General Liability policy shall name the Owner and Using Agency as additional insureds.

1.1.5.1.3 Professional Liability (Errors and Omissions) Insurance. Limits shall not be less than the following:

- (a) i. For Design Professionals – \$1,000,000 per claim and \$1,000,000 in aggregate coverage;
- ii. For Subconsultant Engineers and Architects – \$1,000,000 per claim and \$1,000,000 in aggregate coverage;
- iii. For Other Consultants – \$1,000,000 per claim and \$1,000,000 in aggregate coverage.

(b) The Design Professional shall maintain professional liability insurance that shall be either a practice policy or project-specific coverage. Professional liability insurance shall contain prior acts coverage for services performed by the Design Professional for this Project. If project-specific coverage is used, these requirements shall be continued in effect for two years following the final completion of the Project.

1.1.5.1.4 Maximum Deductible. No policies shall specify a deductible of more than \$250,000 per claim. If demanded in writing by the insurer and with the Owner's approval, the deductible limit may be increased to an amount not in excess of the limit established for Design Professionals under the usual deductible guidelines of the insurer.

1.1.5.1.5 Insurer's Endorsement. Each certificate of insurance shall bear an endorsement in words exactly as follows:

Insurer agrees that the coverage shall not be canceled, changed, allowed to lapse, or allowed to expire until thirty calendar days (ten calendar days for nonpayment of premium) after written notice by United States Certified Mail, Return Receipt Requested, postage prepaid, in an envelope addressed to the party to be notified at such party's address as follows:

Mayor Robert A. B. Reichert
Macon-Bibb County
700 Poplar St
Macon GA 31201

- 1.1.5.2 Insurance Premiums and Deductibles. The Design Professional shall pay the insurance premiums. If additional insurance coverage is required by the Owner, an amendment to this Contract shall be executed and the additional cost of the insurance shall be paid by the Owner as a reimbursable cost. All deductibles shall be paid by the Design Professional.

1.1.5.3 Waiver of Subrogation. There is no waiver of subrogation rights by either party with respect to insurance.

1.1.6 Meaning of Terms.

1.1.6.1 Meaning of Terms. Unless specifically defined herein, terms used in this Contract and its General Requirements shall have the same meaning as in common usage and defined in a standard dictionary.

1.1.6.2 Other Defined Terms. Terms defined in other documents associated with this Project, including the Program, the Contract Documents and the General Requirements, and Supplementary General Requirements, if any, and any program management contract for the management of this Project, shall have the same meaning in this Contract unless such meaning is in conflict with the meaning defined herein.

1.1.6.3 Defined Terms.

1.1.6.3.1 *Contract Administration.* See Section 2, Part 2 and Section 3, Part 2.

1.1.6.3.2 *Construction Documents.* See Section 2, Part 1, Article 2.1.4.

1.1.6.3.3 *General Requirements.* This portion of the Construction Documents deals with the general requirements of the construction process. See also Section 1, Part 1, Article 1.1.4.

1.1.6.3.4 *Construction Cost Limitation.* The amount allocated for the construction of the Project prior to the award of the Construction Contract. Construction Cost Limitation does not include design costs, Owner contingency, or Site acquisition costs

1.1.6.3.5 *CM Supplementary General Requirements.* The portion of the Construction Documents dealing with specific requirements of the construction process that are unique to the Project and shall be drafted by the Design Professional based on specimens provided by the Owner. See Exhibit N.

• PART 2 – RESPONSIBILITIES OF THE PARTIES

1.2.1 Cooperation and Working Relationships. The parties to this Contract agree to reasonably cooperate to fulfill their respective obligations under this Contract and shall endeavor to maintain good working relationships with the other members of the project team.

1.2.2 Owner-Furnished Information. The Design Professional may rely on the accuracy and completeness of Owner furnished information unless notified otherwise. The Design Professional shall notify the Owner upon discovery of any inaccuracies in the information furnished.

1.2.3 Responsibilities of the Owner.

1.2.3.1 Timely Decisions. The Owner represents that it will assure reasonable access to available necessary records, reasonable cooperation on the part of affected officials and employees, and expeditious decisions on matters that affect the progress of work under this Contract.

1.2.3.2 Pre-design Study. The Owner shall provide the Design Professional with the Pre-design Study, if any, as amended.

1.2.3.3 Program. In the event no Pre-design Study is available, the Owner shall provide the Design Professional with a design requirements Statement of Work (SOW) that describes the Owner's objectives, schedule, constraints and criteria, including special equipment, systems and site requirements.

1.2.3.4 Modification of the Owner's Requirements. In the event the Detailed Construction Cost Estimate of the work exceeds the Construction Cost Limitation stated in the Contract, the Owner may at its discretion modify the Owner's requirements sufficiently to permit balancing the Detailed Construction Cost Estimate with the Construction Cost Limitation. In the event the Detailed Construction Cost Estimate exceeds the Construction Cost Limitation, the Design Professional agrees that modifications made for the purpose of balancing the Detailed Construction Cost Estimate with the Construction Cost Limitation shall not create a claim for Additional Services of this Contract, except in the event of scope of work changes, in which case the Design Professional shall be compensated in accordance with provisions in the SOW.

1.2.3.5 Surveys. The Owner shall furnish GIS data describing physical characteristics, right-of-way and easement limitations, and general utility locations for the site of the Project.

1.2.3.6 Responding to the Design Professional. Owner will review and respond with reasonable promptness in accordance with the Design Schedule to the design professional for additional information, comments or approvals that the design professional requires to complete the design documents to stay on schedule. Owner shall require any of its separate consultants to respond to the Design Professional within fourteen calendar days of any request by the Design Professional.

1.2.3.7 Royalties, Patents, Copyrights. Owner shall pay all royalties and license fees for copyrighted material or patented methods or systems required by the Owner to be in the Project.

1.2.3.8 Duty to Report. The Owner's review or approval of any documents prepared by the Design Professional or its consultants shall be solely for the purpose of determining whether such documents are generally consistent with the Owner's construction program and intent. In the event the Owner discovers any errors, inconsistencies, or omissions in the Construction Documents or Instruments of Service, the Owner shall promptly report the same to the Design Professional. No review or approval of Construction Documents or Instruments of Service by Owner shall relieve the Design Professional of its responsibility for the accuracy, adequacy, fitness, suitability, and coordination of its work product.

1.2.4 Responsibilities of the Design Professional.

1.2.4.1 Authority to Act.

1.2.4.1.1 Authorization. The Design Professional of Record is authorized to act on the Design Professional's behalf with respect to the Project.

1.2.4.1.2 Not an Agent of the Owner. The Design Professional is not a representative or agent of the Owner, and has no authority to act on behalf of the Owner unless specifically directed by the Owner in writing (see Exhibit A, Additional Services, Program Management Services and Exhibit N, Construction Management Inspection Services).

1.2.4.2 Distribution of Project Information. No reports, information or other material given to or prepared by the Design Professional under this Contract shall be made available to any person not directly or indirectly involved with the construction or design of the Project by the Design Professional without the prior written approval of the Owner unless otherwise required to do so by law.

1.2.4.3 Written Approvals. The Design Professional shall comply with all applicable laws, codes, and regulations in effect at the time the Construction Documents are completed, and shall make reasonable efforts to obtain written approval of the appropriate authority of all proposed connections to private or public utility systems or public and private roads and streets, when such connections are planned as part of the Project. If no such approval can be obtained, the Design Professional shall so notify the Owner. The Design Professional shall design all connections to private or public utility systems or public roads and streets to comply with applicable ordinances, regulations and codes.

1.2.4.4 Applicable Building Codes. It is the professional responsibility of the Design Professional to provide Construction Documents that conform to applicable building codes, zoning codes, laws, regulations and generally accepted construction industry standards. The Design Professional shall signify its responsibility for the Contract Documents prepared pursuant to this Contract by affixing its signature, date and seal thereto. The Design Professional shall insert the following statement on the cover sheet of the drawings.

To the best of my knowledge, information and belief, the plans, specifications and addenda comply with the applicable building codes.

1.2.4.5 Limited Design Warranty. The Design Professional warrants to the Owner that its design and the Professional Design Services provided for the Project reasonably meet the intent of the Program, are consistent with sound design principles commonly used by Design Professionals under similar circumstances, the resulting design is constructible by a qualified Contractor using appropriate construction methods, and the Instruments of Service and Construction Documents are reasonably accurate, coordinated, and adequate for construction, and are in conformity and comply with all applicable laws, codes, and regulations. The Design Professional further warrants to the Owner that the technical specifications of the equipment specified by the Design Professional meet industry standards (such as approval by UL, or other independent quality assurance rating agencies), and the design permits installation in a useable configuration with appropriate utilities. The Design Professional does not undertake to make any

manufacturer's warranty, such as a warranty as to the materials, design, manufacture, or workmanship of the equipment. As between the Owner and the Design Professional, the sole remedy for breach of this Limited Design Warranty during the design and construction phase of the Project by the Design Professional is that (i) the Design Professional shall redesign the defective design, consistent with the Program or Pre-design Study, at no expense whatsoever to the Owner; and, (ii) if construction of the defectively designed component has commenced, to the extent its remediation cost exceeds the cost that the Owner would have reasonably incurred without the breach of this Limited Design Warranty, the Design Professional shall indemnify the Owner for such additional cost. This Limited Design Warranty does not enlarge or diminish the Design Professional's liabilities as the result of a Negligent Professional Act in the performance of professional services as defined below.

1.2.4.6 Design Professional Standard of Care and Indemnity. The Design Professional makes the following Professional Indemnity:

1.2.4.6.1 Standard of Care. The Design Professional by the execution of this Contract warrants that it is possessed of that degree of care, learning, skill, and ability which is ordinarily possessed by other members of its profession and further warrants that in the performance of the duties herein set forth it will exercise such degree of care, learning, skill, and ability as is ordinarily employed by licensed professionals under similar conditions and like circumstances and shall perform such duties without neglect, and shall not be liable except for the failure to exercise such degree of care, learning, skill, and ability or as is otherwise set forth within this Contract.

1.2.4.6.2 Professional Services Indemnity. The Design Professional shall indemnify, release, and hold harmless the Owner, its officers, members, employees, and agents, from and against all liability, damages, costs, expenses (including reasonable attorney's fees and expenses incurred by the Owner and any of the Owner's officers, members, employees or agents), claims, suits and judgments to the extent arising or resulting from the delivery of Professional Services under this Contract, as defined below, but such indemnity is limited to those liabilities arising from a Negligent Professional Act of the Design Professional, as defined below.

a. For the purposes of the Professional Services Indemnity in Subparagraph 1.2.4.6.2 above, Professional Services means those services performed by a licensed professional in Design Professional's employ.

b. For the purposes of the Professional Services Indemnity in Subparagraph 1.2.4.6.2 above, Negligent Professional Act means a negligent act, error, or omission in the performance of Professional Services by Design Professional (or by any person or entity, including joint ventures, for whom the Design Professional is liable) that causes liability and fails to meet the applicable professional standard of care, skill and ability under similar conditions and like surrounding circumstances, as is ordinarily employed by others in their profession.

- 1.2.4.6.3 Non-Professional Services Indemnity. To the extent of the contractual liability provisions of the Commercial General Insurance policy required by subparagraph 1.1.5.1.2 above, Design Professional hereby agrees to indemnify and hold harmless the Owner, its departments, agencies and instrumentalities and all of their respective officers, members, employees and directors (hereinafter collectively referred to as the "Indemnitees") from and against any and all claims, demands, liabilities, losses, costs or expenses, including attorneys' fees, due to liability to a third party or parties, for any loss due to bodily injury (including death), personal injury, and property damage arising out of or resulting from the performance of this Contract or any act or omission on the part of the Design Professional, its agents, employees or others working at the direction of Design Professional or on its behalf, or due to any breach of this Contract by the Design Professional or due to the application or violation of any pertinent Federal, State or local law, rule or regulation. This indemnification extends to the successors and assigns of the Design Professional. This indemnification does not extend beyond the scope of this Contract and the work undertaken there under. Nor does this indemnification extend to claims for losses or injuries or damages incurred directly by the Indemnitees due to the sole negligence of any Indemnitee.

1.2.4.7 No Fee for Changes Caused by the Design Professional's Oversight. Notwithstanding any other provision in this Contract to the contrary, the Design Professional shall receive no fee for Change Orders caused by the oversight of the Design Professional.

1.2.4.8 The Owner's Approval. The Design Professional acknowledges and agrees that the Owner does not undertake to approve or pass upon matters of professional service and the Owner, therefore,

assumes no responsibility for such. The Design Professional acknowledges and agrees that the Owner approval or acceptance of the Design Professional's services is limited to the function of determining whether there has been compliance with the Owner's requirements provided in this Contract. The Owner does not undertake to inquire into the adequacy, fitness or correctness of Professional Services. The Design Professional agrees that no approval of services by any person, body, or agency shall relieve the Design Professional of its responsibility for the adequacy, fitness, suitability and/or correctness of Professional Services.

1.2.4.9 Consultants. The Design Professional shall furnish those consultants as are normal and customarily necessary to complete the services as described in Section 2 as a part of the Design Professional's Basic Services. The Owner shall pay as Additional Services for other consultants to complete the services as described in Section 3.

1.2.4.10 Tests. The Design Professional shall select and engage additional consultants and testing firms as necessary to perform surveys, borings, and test pits, as well as chemical or mechanical tests, or other tests proposed by the Design Professional. The Design Professional shall require that all tests called for in the Contract Documents be performed, and the Design Professional shall not be liable for errors on the part of the laboratory, engineer, surveyor, or other testing service for tests not required to accomplish the SOW. The Owner shall pay for all such tests not required by the SOW as a reimbursable expense when approved by the Owner in advance.

1.2.4.11 Building Official. The Director of Macon-Bibb County Department of Business Development is the Building Official for the Owner. The Design Professional shall fully support the Building Official's code enforcement duties for the Project, for other than the Life Safety, Elevator, Building Accessibility and Fire Safety rules, regulations and codes administered by the State Fire Marshal and local health department. Accordingly, the coordination of the "Special Inspections" required under the Georgia State Minimum Standard Building Code, as adopted by the State of Georgia, and the associated record-keeping activities, are a part of the Basic Services of this Contract. The Design Professional shall keep two sets of the Record Documents and any other documents required by the building codes, zoning codes, regulations, or applicable laws, for a period of ten years.

1.2.4.12 Keeping the Project on Schedule. The Design Professional is responsible for timely completion of all its activities, responsibilities, and obligations under this Contract in accordance with the schedule in the SOW as amended and approved by the Owner. The Owner shall seek the Design Professional's input if any change in the Owner's requirements affects the design schedule. The Design Professional acknowledges and agrees, absent fault of the Owner or *force majeure*, that if the agreed-upon design milestones in the SOW schedule are not met, the Design Professional will, at its own expense, accelerate its work, accelerate or replace delinquent consultants, and retain such additional resources as necessary to return the Project to the schedule.

1.2.4.13 Time Periods. If, because of events beyond its reasonable control, the Design Professional is not able to meet a specified time period, then it may ask for additional time from the Owner.

1.2.5 Access to Records and Documents.

1.2.5.1 Access and Audit. The Owner shall have reasonable access to all books, documents, papers, and records of the Design Professional concerning the Project in order to make audit examinations, excerpts, and transcripts relative to this Contract. Records of reimbursable expenses and expenses pertaining to services performed shall be kept on the basis of generally accepted accounting principles and shall be available to the Owner's representative at mutually convenient times, but in no event more than 72 hours after a written request from Owner.

1.2.5.2 Open Records Act. The Design Professional acknowledges the application of the Georgia Open Records Act (See O.C.G.A. §50-18-70) to the Design Professional's records concerning this Project and agrees to comply with all requirements there under and require same of all consultants. The Design Professional must promptly advise Owner in writing within 24 hours of a request for records falling under the Act.

1.2.6 Construction Management Delivery Requirements. If Construction Management services are awarded through Exhibit A, the Design Professional shall coordinate its design and construction management duties with the construction contractor as a team with the following objectives and responsibilities:

During Pre-construction:

- Design review for constructability

- Design review for value engineering

During Construction:

- Develop a cost tracking methodology to advise all parties if the expected or projected costs may exceed the Construction Cost Limitation, and that provides realistic suggestions to regain balance between cost and scope
- Develop, or if a Program Manager is engaged, coordinate a cost tracking methodology to compare estimated costs with real time actual costs
- Document, or if a Program Manager is engaged, coordinate the documentation of all cost related decisions and their rationale and provide Owner with this record in a bound volume upon completion of the Project
- Inspect construction for compliance with Contract.
- Development and issuance of construction documents for construction packages to implement Change Orders as identified during construction or directed by the Owner
- Review and coordinate the issuance of Change Orders
- See Exhibit N for additional requirements

SECTION 2 – BASIC SERVICES

PART 1 – DESIGN SERVICES

2.1.1 General.

Basic Services shall include all normal and customary professional services of the Design Professional and its consultants required in connection with the SOW for the Project. (See Exhibit C.)

The Design Professional shall furnish or provide the architectural and engineering services necessary to design the Project in accordance with the Owner's requirements as outlined in the Owner's SOW. The Design Professional agrees to prepare applicable drawings, specifications, and other documents in which the Design Professional designates complete definite and clear methods and materials of construction. The Design Professional shall call for no result unless the Design Professional has furnished complete, definite, and clear drawings and specifications as to the construction results to be achieved. In particular, the Design Professional shall require of its Consultants the level of quality recommended by industry standards (e.g., ASCE for structural engineers). The Owner and Design Professional, in this regard, acknowledge and agree that the Contract Documents are addressed to skilled tradesmen in the construction profession who shall be required to use their special skills and experience, through submittals and shop drawings, where required, to translate the Design Professional's design intent into a completed structure. Where appropriate, the Design Professional shall indicate in the Contract Documents when particular shop drawings will require the seal of a specialty consultant before being submitted for review. The Design Professional shall prepare suitable Proposal Documents adequate for the preparation of proposals.

2.1.1.1 Considerations for Design. The Design Professional shall review the SOW with the Owner to confirm its understanding of the Owner's requirements. The Design Professional shall design in accordance with the SOW provided by the Owner, taking into consideration the value of alternative materials, building systems, equipment, maintenance costs, budget, and other considerations in its design.

2.1.1.2 Meetings and Presentations. The Design Professional shall attend meetings, take appropriate minutes, distribute minutes to Owner, attendees and interested parties, and otherwise explain its work product as may be necessary to its implementation.

2.1.1.3 Approval of Governmental Authorities. The Design Professional shall assist the Owner in filing any required documents for the approval of governmental authorities having jurisdiction over the Project, when applicable.

2.1.1.4 Contingencies. No final construction cost estimate submitted by Design Professional shall include a construction contingency amount without providing a specific justification. .

2.1.1.5 No Calculated Risks. The Design Professional agrees that budgetary limitations are not a justification for breach of sound principles of architectural and engineering design. The Design Professional shall take no calculated risks in the design of the work.

- **2.1.2 Instruments of Service.**

2.1.2.1 Definition of Instruments of Service. Instruments of Service are those drawings, specifications, and other documents, including those in electronic form, prepared specifically for this Project by the Design Professional and its consultants. In recognition of the public ownership of the Project, the Design Professional and its consultants agree and shall be deemed to have prepared their respective Instruments of Service as architectural and engineering works and as works for hire as defined in 17 U.S.C. §§102(a)(8) and 201(b), thereby transferring and vesting in the Owner, pursuant to 17 U.S.C. §201(d), all common law, statutory, and other reserved rights, including copyrights in the Instruments of Service and in the buildings, improvements, and structures constituting the Project.

2.1.2.2 Copyright. Upon execution of this Contract, the Design Professional expressly grants, assigns, transfers, and otherwise quitclaims to the Owner, its successors, and assigns, pursuant to 17 U.S.C. §201(d), all common law, statutory, and other reserved rights, including copyrights in both the Instruments of Service and in the buildings, improvements, and structures embodying the architectural and engineering works that constitute the Project, provided that the Owner shall comply with all obligations, including prompt payment of all sums, when due, under this Contract. The Design Professional shall obtain similar grants, assignments, transfers, and quitclaims from its consultants consistent with this Contract. The Design Professional warrants (and shall cause each of the Design Professional's consultants to warrant also) that this transfer of copyright and other rights is valid against the world.

2.1.2.3 License to the Design Professional. Notwithstanding the rights, ownership, grants, assignments, transfers, and quitclaims set forth in Paragraphs 2.1.2.1 and 2.1.2.2 of this Article above, the Owner expressly grants, assigns, and transfers a permanent and exclusive license to the Design Professional, its successors, and assigns, for the Design Professional's Instruments of Service, and to each consultant (including the consultant's successors and assigns) of the Design Professional for such consultant's Instruments of Service, to use, reproduce, sell, transfer, and accomplish derivative works there from, for any and all purposes, except as noted in Paragraph 5.3.3.3.

2.1.2.4 Release of Liability. The Owner agrees and hereby forever releases the Design Professional from all liabilities that might arise from the Owner's use of the Instruments of Service or other licensed portions of the Construction Documents for any alterations, additions, subtractions, or modifications of the Instruments of Service or of the buildings, improvements, and structures of the Project resulting there from, or for use in other Projects; provided, however, that this release does not apply to liabilities arising from the original Instruments of Service and the buildings, improvements, infrastructure, and structures of the Project that have not been altered, added to, subtracted from, or modified subsequent to completion of construction of the Project by the Owner, its successors, or assigns.

2.1.2.5 Use of Instruments of Service. Except for the rights and licenses granted in this Article, no other license or right shall be deemed granted or implied under this Contract. The Owner permits and authorizes the Contractor, Subcontractors, sub-Subcontractors, and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work.

2.1.3 Site Evaluation and Planning Services.

2.1.3.1 Preliminary Evaluation. Site evaluation and planning functions should proceed concurrently with the accomplishment of the preliminary design. The Design Professional shall conduct a preliminary review of the site based on information furnished by the Owner. The Design Professional will advise the Owner of potential site-related problems that the Design Professional notes from such review.

2.1.3.2 Plot Plan. The construction drawings should include a Plot Plan designated as such on the drawing and consisting of one sheet only. The Plot Plan serves as the basis for the site evaluation. All work shall be sited on the plot plan to scale. In the absence of written consent of the Owner in advance, the Plot Plan shall comply with The A-E SOW at Exhibit C.

2.1.3.3 Land Disturbance Permitting.

2.1.3.3.1 General. The Design Professional and its consultants are responsible for providing documentation for any applicable land disturbance permitting. The Design Professional is contractually required to provide the documentation for the Owner to obtain the land disturbance permit(s) that comply with the National Pollution Discharge Elimination System (NPDES) general permit for storm water management for construction activities. As a general principle, compliance requires that there be properly designed Best Management Practices (BMPs), properly installed BMPs, and inspection and maintenance of the installed BMPs.

2.1.3.3.2 Implementation. Where applicable the Design Professional and its consultants shall depict upon the Site Plan elements of the erosion, sedimentation and pollution control plan, specifying its recommended design of BMPs for the Project, including storm water management facilities, and other like matters for submission to the permitting officials that enables the land disturbance permitting of the Project. With assistance of the Owner, the Design Professional shall resolve any deficiencies with a goal that all environmental permitting and plans be approved by the end of the Pre-commencement period.

2.1.3.4 Additional Information. The Design Professional shall advise the Owner of the need for any information that the Design Professional determines should be provided by testing laboratory or similar third party provider. With prior written approval of the Owner as to cost and other business terms, the Design Professional shall contract for the information or, if the Owner elects, the Owner shall contract as advised by the Design Professional. The Design Professional shall not be liable to Owner for professional judgment of third party providers. The Design Professional shall inform the Owner if the Design Professional discovers any defect in the information so provided. Except as provided above as to tests, the retention of independent contractors or other assistance does not relieve the Design Professional of any responsibility under this Contract.

2.1.4 **Construction Documents.**

2.1.4.1 General. Construction Documents shall be provided as required by the A-E SOW at Exhibit C.

2.1.4.2 Specification Format. The Construction Specifications should be in full Georgia Department of Transportation format covering required materials, products and equipment, their installation and operation, quality assurances, reference standards and submittal requirements. The Construction Specifications shall provide all supplemental information and requirements included but not elsewhere covered by the Contract Documents.

- 2.1.4.3 Construction Drawings. Contract drawings shall consist of those drawings necessary to describe the size and character of the Project and its design, construction, materials, finishes, fixtures, systems and other related work. Quantities and CADD requirements are included in the A-E SOW at Exhibit C.

- **PART 2 – CONSTRUCTION CONTRACT ADMINISTRATION SERVICES**

- Construction contract administration services are not included in the basic contract. Construction management inspection or other additional design services may be included in the contract as identified in Section 3, Additional Services and Exhibits A and N.

SECTION 3 – ADDITIONAL SERVICES

PART 1 – ADDITIONAL DESIGN SERVICES

3.1.1 General. Supplemental to those services described under Basic Design Services, the Design Professional and its consultants may be called upon to provide certain Additional Design Services and CM/Contract Administration Services during the course of the Project. For the purposes of this Contract, a list of sample Additional Design Services and CM/Contract Administration Services is set forth in Exhibit A, and may be modified, augmented or expanded on Exhibit N, including any stipulated payment amounts for those Additional Design Services and CM/Contract Administration Services for which compensation can be projected and agreed upon in advance. The parties agree that other Additional Design Services and CM/Contract Administration Services may be required or requested by the Owner and set forth on Exhibits A and N, with the compensation to be agreed upon prior to the Design Professional undertaking the Additional Design Services or CM/Contract Administration Services; provided, however, that if such compensation cannot be agreed, the Additional Design Services or CM/Contract Administration Services shall not be awarded.

3.1.2 Typical Additional Design Services.

3.1.2.1 Building Commissioning. The Commissioning Provider is generally a separate entity from the Design Professional. In the event the Design Professional is selected to provide Commissioning services, a separate contract will be executed to cover Building Commissioning with the Owner. If a Commissioning Provider is retained, the Design Professional shall consult with, coordinate with, and support the Commissioning Provider throughout the Design and Construction Contract Administration phases of the Project. The Design Professional shall recognize that the ultimate purpose of Commissioning—the full, complete, and functional operation of the item or system being commissioned—is dependent upon the Commissioning Provider's ability to review the design and installation of the systems.

3.1.2.2 Subsurface Utility Engineering (SUE). The Design Professional, through its consultant engineers, undertakes to assist managing certain risks associated with subsurface utilities by mapping and assessing existing utilities at appropriate quality levels and coordinating the design and relocation of such utilities, in accordance with ASCE standards.

3.1.2.3 Master Planning. The Design Professional may be requested to integrate the Project into a master plan for the campus or facility. While master planning is normally done through a separate contract, where there is no master plan developed, the Design Professional may be requested to perform such services for the Owner.

3.1.2.4 Landscape Planning and Design. The Design Professional may be requested to provide, or secure through a landscape architect, landscape and irrigation planning for the project and adjacent lands for the campus or facility.

3.1.2.5 Existing Facilities Analysis. To complement the Project, master planning, and landscape planning, the Design Professional may be requested to analyze existing facilities, both for anticipated future uses and to develop additional future utilization for such facilities.

3.1.3 Other Additional Design Services

3.1.3.1 Additional Scopes of Service. The Scopes of service for Additional Design Services without samples on Exhibit A should be drafted and attached as Exhibit N.

3.1.3.2 Modifications to Sample Scopes of Service. The sample scopes of service in Exhibit A may be modified or expanded and attached as Exhibit N. In such case the scope of service in Exhibit A should be appropriately annotated.

- **PART 2 – ADDITIONAL CONSTRUCTION CONTRACT ADMINISTRATION SERVICES**

3.2.1 General. Supplemental to those services described under Basic Design Services, the Design Professional and its consultants may be called upon to provide certain Additional CM/Contract Administration Services during the course of the Project. For the purposes of this Contract, a list of sample Additional Design

Services and CM/Contract Administration Services is set forth in Exhibit A, and may be modified, augmented or expanded on Exhibit N, including any stipulated payment amounts for those Additional CM/Contract Administration Services for which compensation can be proposed in advance. The parties agree that other Additional CM/Contract Administration Services may be required or requested by the Owner and set forth on Exhibit N, with the compensation to be agreed upon prior to the Design Professional undertaking the Additional CM/Contract Administration Services; provided, however, that if such compensation cannot be agreed, the Additional Services shall be performed at the hourly rates set forth listed in Exhibit B, plus reimbursable expenses pursuant to Article 4.1.3, with a limitation as to maximum amount specified or shall not be awarded at the option of the Owner.

3.2.2 Typical Additional CM/Contract Administration Services

3.2.2.1 Program Management Services. The Owner may request the Design Professional to provide Program Management Services. In such event, the Design Professional becomes, for specific services, the agent of the Owner. The Owner may request the Design Professional to provide such program management services, either through this contract or by a separate contract, at the Owner's option.

3.2.2.2 Construction Inspection Services. The Owner may procure construction inspection services through the Design Professional. The Owner may request the Design Professional to provide such inspection services, either through this contract or by a separate contract, at the Owner's option. See Exhibit N for CM requirements.

3.2.2.3 Facility Operations and Training Services. The Design Professional, upon request of the Owner, shall coordinate with the construction contractor to provide operations instructions and training for the Owners facilities personnel to include normal operation of all building systems, emergency operations, and normal maintenance operations. Training shall include class training objectives, hands-on training exercises, and training manuals.

3.2.2.4 Facility Observation and Evaluation – Warranty Services. The Design Professional, upon request of the Owner, shall observe and evaluate the function of building systems during the warranty period to identify actual and potential warranty items, as well as any deficiencies or defects that require correction. Reports shall be rendered in sufficient time for the Owner to secure corrections under applicable warranties.

3.2.3 Other Additional CM/Contract Administration Services

3.2.3.1 Additional Scopes of Service. The Scopes of service for Additional CM/Contract Administration Services without samples on Exhibit A should be provided in Exhibit N.

3.2.3.2 Modifications to Sample Scopes of Service. The sample scopes of service in Exhibit A may be modified or expanded by agreement of the parties and attached as Exhibit N. In such case the scope of service in Exhibit A should be appropriately annotated.

SECTION 4 – COMPENSATION AND CONTRACT ADJUSTMENTS

PART 1 - COMPENSATION

4.1.1 Compensation for Basic Services.

4.1.1.1 Compensation for Basic Design Services. The Design Professional agrees to perform for the Owner the work and the professional services hereinbefore denominated as Basic Design Services. The Owner agrees to pay the Design Professional for such services as specified in the Contract, hereinafter known and referred to as the "Basic Design Services Fee". The Basic Design Services Fee shall include all professional Basic Design Services for design and the design of Change Orders during the Construction phase that are the result of errors, omissions or ambiguities by the Design Professional. If the Owner does not elect to procure construction services, then there shall be no payment for construction procurement services.

4.1.2 Compensation for Additional Services.

4.1.2.1 Compensation for Additional Services. Additional Services shall be compensated as set forth on Exhibit A for the stipulated payment amounts set forth therein. Other Additional Services not set forth on Exhibit A that are required or requested by the Owner shall be compensated as agreed, utilizing the methodology set forth on Exhibit A, prior to the Design Professional undertaking such Additional Services; provided, however, that if such compensation cannot be agreed, the Additional Services shall be performed at the hourly rates set forth listed in Exhibit B, plus reimbursable expenses pursuant to Article 4.1.3 below, with a limitation as to maximum amount specified.

4.1.3 Reimbursable Expenses

4.1.3.1 Additional Site Visits and Miscellaneous Travel.

4.1.3.1.1 Site Visits. Additional Site Visits (those in addition to visits required to accomplish design services identified in the SOW at Exhibit C or Additional Services set forth in Exhibit A) shall be reimbursed at the unit prices established on Exhibit B..

4.1.3.1.2 Miscellaneous Travel. Upon the express prior written approval of the Owner, miscellaneous travel and subsistence shall be reimbursed to the Design Professional and its consultants at the same rates and conditions for state employees.

4.1.3.2 Reproduction of Documents. In addition to the Design Professional’s Basic Services fee as herein before established, the Design Professional shall be reimbursed at actual cost, but not greater than the most competitive market rate for printing of drawings, project manuals (specifications), not required by the Contract, when additional copies are requested by the Owner.

4.1.3.3 Other Direct Expenses. Other such project direct expenses as are approved in advance in writing by the Owner.

4.1.3.4 Accounting Records. Accounting records of the Design Professional pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the Owner no later than seven (7) calendar days after a written request is delivered to the Design Professional. Such records shall remain available to the Owner for five (5) years after material completion of Project unless grant funding is used or if the project is not constructed. If grant funding is used, records shall be retained for ten (10) years and if the project is not constructed, all no confidential project records shall be turned in to the Owner prior to deleting or destroying the records...

4.1.4 Payments to the Design Professional.

4.1.4.1 Basic Design Services Fee Payment Schedule. Upon completion and approval by the Owner of each phase of documents and services specified herein, the Design Professional shall be entitled to payment of a percentage of the Basic Design Services Fee substantially in accordance with the following schedule unless cost of individual phases are established in the SOW or during the contract bid process.

- (a) Preliminary Concept Report (__%)
- (b) First Finals Concept Phase (__%)
- (c) Final Concept Phase (__%)

4.1.4.1.1 Partial Payments. Partial payments may be made monthly with the amount of the payment prorated over the anticipated time required to complete a particular phase. In no case shall the total of the partial payments for a particular phase exceed the fee established for that phase.

4.1.4.1.2 Payments to Consultants. The Design Professional shall make payments to its consultants within five (5) business days following receipt of payment from the Owner.

4.1.4.2 Additional Services Fees. Payments to the Design Professional on account of Additional Services shall be made as follows.

4.1.4.2.1 Percentage Additional Services. Payments shall be made monthly to commensurate with the percentage of the completion of the services.

4.1.4.2.2 Hourly Additional Services. Payments shall be made monthly based on the time records of the Design Professional and the Design Professional's consultants.

4.1.4.3 Reimbursable Expenses. Payments for authorized reimbursable expenses incurred by the Design Professional and the Design Professional's consultants shall be paid monthly based on documented costs.

4.1.4.4 Payment Due Dates and Interest. Should the Owner fail to pay a proper invoice within thirty calendar days of receipt of a properly constituted invoice, the Design Professional shall notify the Owner in writing by Certified or Statutory mail. If the Owner fails to pay within five business days of receipt of the notice, the Design Professional shall receive, in addition the sum named in the proper invoice, interest thereon at the rate of one half (½) percent per month on the unpaid balance as may be due.

4.1.4.5 Deductions; Payments Withheld. No deduction shall be made from payments to the Design Professional on account of penalties, liquidated damages or other amounts assessed against the construction contractor. The Owner reserves the right to withhold payments to the Design Professional for losses connected with the Project caused by the negligent errors, omissions, delinquencies or wrongful acts of the Design Professional in performing its duties under this Contract. Upon receipt of written request from the Design Professional, the Owner agrees to discuss the amounts and reasons for which the payments are withheld.

• PART 2 - CONTRACT ADJUSTMENTS

4.2.1 General

4.2.1.1 Change in Duties. The duties, responsibilities and limitations of authority of the Design Professional under this Contract shall not be restricted, modified or extended without written Contract between the Design Professional and the Owner.

4.2.1.2 Other Consultants. The Owner may contract with other consultants to perform services directly to the Owner without voiding this Contract. In the event the Design Professional is caused additional coordination or effort through the involvement of such consultants, the Design Professional shall be entitled to charge for such Additional Services at a lump sum amount or the rates stipulated in Exhibit B plus reimbursable expenses as set forth in Article 4.1.3. The Design Professional shall give notice to the Owner prior to incurring these additional costs.

4.2.2 Modifications and Supplemental Fee Agreements. Changes in the Design Professional fees resulting from a modification in the scope of services defined in this Contract are not valid or effective until executed by the Owner and the Design Professional. Until the modifications and supplemental fee agreement is executed, there shall be no liability upon the Owner for payment, nor shall there be an obligation on the part of the Design Professional to commence services on the modified work.

4.2.3 Change in the Construction Cost Limitation or GMP Cost Limitation. If the Construction Cost Limitation (CCL) is (i) changed by the Owner and (ii) the need for that change was not caused by the Design Professional and (iii) the Design Professional has commenced design, as previously authorized by the Owner and (iv) the CCL change causes a re-design or additional design, then the Design Professional may request an adjustment in compensation for the cost of redesign or additional design. The Design Professional and the Owner shall negotiate and agree upon a lump sum adjustment prior to initiating any design change.

4.2.4 Claims for Additional Fees. Any claim for additional fees shall be made to the Owner no more than twenty (20) calendar days after the occurrence of the event giving rise to the claim. The Owner may not honor claims made after twenty (20) calendar days. If the Owner and the Design Professional cannot agree on the additional fee requested, the dispute will be resolved according to Section 5.

- **SECTION 5 – DISPUTES, TERMINATION AND MISCELLANEOUS PROVISIONS**

PART 1 – DISPUTES

5.1.1 Initial Dispute Resolution. If a dispute arises out of or relates to this Contract or its breach, the parties shall endeavor to settle the dispute first through direct discussions between the Owner and the Design Professional representatives, who shall have the authority to settle the dispute. If the Owner and the Design Professional representatives are not able to promptly settle the dispute, the senior executives of the Owner and the Design Professional, along with their respective legal counsel, who shall have the authority to settle the dispute, shall meet within twenty-one (21) calendar days after the dispute first arises. If the dispute is not settled within seven (7) calendar days from the referral of the dispute to the senior executives, the Owner and the Design Professional may choose to pursue civil litigation in the Superior Courts of Macon-Bibb County, Georgia.

5.1.2 Claims for Consequential Damages. The Owner retains its right to claim for consequential damages in the event the Design Professional fails to perform under this Contract.

5.1.3 Mediation and Arbitration. Any and all references to mediation or arbitration are hereby deleted from this Agreement and should be considered null and void. Owner and the Design Professional expressly agree that any dispute arising out of or relating to this Contract or its breach which is not settled through direct discussions between the parties shall be resolved through litigation in the Superior Court of Bibb County. The independent auditor identified in paragraph 5.2.2.3 is not considered to be a mediator or arbitrator.

- **PART 2 - TERMINATION**

5.2.1 Termination or Suspension by the Design Professional.

5.2.1.1 Suspension by the Design Professional for Nonpayment. If the Owner should fail to pay the Design Professional or provide a proper notice of dispute of the invoice within sixty (60) calendar days of presentation of a proper notice pursuant to paragraph 4.1.4.5, then the Design Professional may, upon seven (7) calendar days written notice to the Owner, suspend services or terminate this Contract and recover from the Owner payment for all services properly performed and expenses properly incurred through the date of suspension. Upon payment, all drawings, specifications and other documents relating to the design of the Project or Additional Services work shall be surrendered forthwith by the Design Professional to the Owner. The Design Professional shall have no liability to the Owner for damage or the delay of the Project resulting from a proper suspension or termination. The Owner will pay reasonable costs incurred by the Design Professional as a result of the proper suspension or termination. If the services are resumed, reasonable adjustments to the Design Professional's compensation and the Project schedule will be made.

5.2.1.2 Termination by the Design Professional due to Lengthy Suspension of the Work. If the Work should be stopped under an order of any court or other superior public authority or by the Owner for a period of one hundred twenty (120) calendar days through no act or fault of the Design Professional or by anyone employed by it, then the Design Professional may, upon seven (7) calendar days written notice to the Owner, stop work or terminate this Contract and recover from the Owner payment for all services properly performed and expenses properly incurred through the date of suspension. Upon payment, all drawings, specifications and other documents relating to the design of the Project or Additional Services work shall be surrendered forthwith by the Design Professional to the Owner.

5.2.2 Termination or Suspension by the Owner.

5.2.2.1 Suspension of Contract by the Owner. Upon receipt of a notice to suspend services from the Owner, the Design Professional shall immediately suspend services and may request payment for all services performed and expenses incurred through the date of suspension. The Design Professional shall have no liability to the Owner for damage or the delay of the Project resulting from the suspension. Owner will pay reasonable costs incurred by the Design Professional as a result of the suspension. Upon payment, all drawings, specifications, and other documents relating to the design of the Project or Additional Services work shall be surrendered forthwith by the Design Professional to the Owner. If the

services are resumed, reasonable adjustments will be made to the Project schedule and the Design Professional's compensation and reimbursable expenses for the balance of its services.

5.2.2.2 Termination without Cause or For Convenience of the Owner. The Owner may at any time, and for any reason or without any reason or cause, terminate this Contract by written notice to the Design Professional specifying the termination date that shall be no less than seven (7) calendar days after receipt of the notice of termination. In event of termination under this paragraph, the Owner shall pay to the Design Professional any fee properly due (i) for services already properly performed prior to the effective date of the termination and (ii) for any reimbursable expenses properly incurred prior to the effective date of the termination. In the event of such termination the Design Professional shall have no claim in excess of what is allowed in this paragraph for any sum of money, however denominated, as a result of or relating to such termination. All instruments of service, including all drawings, models, specifications and other documents relating to the design of the Project or Additional Services work shall be surrendered forthwith by the Design Professional to the Owner. The Design Professional shall be entitled to make and retain copies of all such documents and use all such design as set forth pursuant to Article 2.1.2, Instruments of Service.

5.2.2.3 Termination by the Owner for Nonperformance. In the event the Design Professional through any cause fails to perform any of the material terms, covenants or provisions of this Contract, or if it for any cause fails to make progress in the services hereunder in a reasonable manner, the Owner shall have the right to terminate this Contract by giving notice in writing of the fact and date of such termination to the Design Professional. The termination date shall be no less than seven (7) calendar days after receipt of the termination notice. Upon termination, all instruments of service, including all drawings, models, specifications and other documents relating to the design of the Project or Additional Services work shall be surrendered forthwith by the Design Professional to the Owner. In such case, the Design Professional shall receive proper compensation for such services that have been satisfactorily performed by the Design Professional up to the date of termination of this Contract. In the event of a dispute, proper compensation shall be determined by an independent auditor, to whom the Design Professional shall have no reasonable objection, selected and paid for by the Owner. The Owner may take over the services to be provided hereunder and may prosecute the same to completion by contract or otherwise, and the Design Professional shall be liable to the Owner for any excess cost occasioned the Owner thereby.

5.2.3 Force Majeure. If the Design Professional shall be unable to perform or shall be delayed in the performance of any of the terms and provisions of this Contract as a result of (i) governmental preemption of materials or services in connection with a national emergency declared by the President of the United States; (ii) riot, insurrection, or other civil disorder, acts of terror or terrorism affecting performance of the Work; or (iii) unusual and extreme weather conditions constituting Acts of God, then, and in any such event, such inability or delay shall be excused, and the time for completing the affected portions of this Contract, the Project (and the entire Project, if applicable) shall be extended for such reasonable period of time as the delay has affected the performance of the Work hereunder. The Design Professional shall take all reasonable actions to minimize the delay caused by any of the above factors, and shall notify the Owner in writing of any event allowing for excuse or delay not later than seven (7) calendar days after the event the Design Professional first becomes aware of the event, or should have become aware, of the event; otherwise the Design Professional will be deemed to have waived the excuse or delay.

• **PART 3 – MISCELLANEOUS PROVISIONS**

5.3.1 Matters of Interpretation.

5.3.1.1 No Estoppel. No course of action or failure to act by the Owner or any of its officers, members, employees, agents or other representatives shall serve to modify this Contract, waive rights under it or arising from its breach, or to stop the Owner from enforcing its terms.

5.3.1.2 Captions. The Caption of each numbered provision hereof is for identification and convenience only and shall be completely disregarded in construing this Contract.

5.3.1.3 Notices. Any notice to be given hereunder shall be in writing and shall be given by delivery in person or by depositing the notice in United States Certified Mail, Return Receipt Requested, postage prepaid, or statutory mail in an envelope addressed to the parties to be notified at such party's address as shown in the Contract.

5.3.1.4 Project Name. The Design Professional shall use the identical and full name of the Project on all correspondence, Contract Documents and invoice for fees.

5.3.2 Matters of Law

5.3.2.1 Drug Free Work Place. The Design Professional acknowledges that it is fully aware of the contents and requirements of Chapter 24 of Title 50 of the Official Code of Georgia concerning the maintenance of a Drug Free Workplace. The Design Professional by execution of this Contract does hereby certify that, to the best of its knowledge, information and belief, the Design Professional and its consultants are in compliance with the aforesaid code section.

5.3.2.2 Prohibition Against Contingent Fees. As required pursuant to O.C.G.A. §50-22-6(d), the Design Professional warrants that it has not employed or retained any company or person, other than a *bona fide* employee working solely for it, to solicit or secure this contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a *bona fide* employee working solely for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this Contract.

5.3.2.3 Conflicts of Interest. The Design Professional acknowledges and certifies that the provisions of O.C.G.A. §45-10-1 *et seq.* concerning conflicts of interest and prohibitions of certain state officials and employees dealing with state agencies have not been and will not be violated.

5.3.2.4 Gratuities. The Design Professional agrees that neither it nor any of its employees nor consultants shall accept any gratuities nor receive any compensation from the general contractor, subcontractors or material suppliers involved in the construction of the Project. The Design Professional shall notify each of its employees and all consultants of the Design Professional's commitments under this provision of this Contract. This provision expressly precludes any compensation to the Design Professional, including any employee and consultant, by the construction contractor, subcontractors or material suppliers involved in the construction of the Project for preparation of detail drawings, preparation of shop drawings, checking shop drawings or any other service for work performed by the Design Professional under the Contract without prior written approval of the Owner.

5.3.2.5 Applicable Law. The law of Georgia shall govern this Contract. In case any dispute or controversy arises between the Design Professional and the Owner, either party may exercise those legal remedies as may be available to them. The venue for any proceedings is herein agreed to be the Superior Court of Bibb County, State of Georgia. The Design Professional shall carry on the services required under this Contract, and the Owner shall continue to pay the Design Professional for such services during any legal proceedings unless otherwise agreed by the Design Professional and the Owner in writing.

5.3.2.6 Statute of Limitations/Statute of Repose. The Statute of Limitations/Repose on any cause of action by either party to this Contract shall commence to run on the date of the final completion of the project or upon a judicial determination of final completion of the Project.

5.3.3 Other Contract Provisions.

5.3.3.1 Third Party Beneficiary. There are no individual or personal third party beneficiaries of this Contract.

5.3.3.2 Hazardous Materials. Unless specifically provided otherwise in this Contract, the Design Professional shall have no responsibility concerning the discovery, removal or handling of hazardous materials, including but not limited to, asbestos or lead paint, or hazardous waste in soil or ground water.

5.3.3.3 Advertising by the Design Professional. The Design Professional shall not use any photographic representation or verbal description of the Owner, nor the Project in a derogatory manner.

5.3.3.4 Successors and Assigns.

5.3.3.4.1 Jointly Bound. The Design Professional binds itself jointly and severally, its successors, executors, administrators and assigns to Owner and all covenants of this Contract. The Design Professional shall not assign, sublet or otherwise transfer its interest in this Contract without the prior written consent of the Owner.

5.3.3.4.2 Assignment. The Design Professional hereby agrees that the Owner may, if it wishes to do so, assign this Contract to another governmental entity, agency, authority, or commission, and Design Professional agrees further that, upon notice in writing to the Design Professional of such assignment, the Design Professional is and shall be bound to the governmental entity, agency, authority, or commission by all the terms and conditions hereof the same as if said Contract had originally been entered into with the assignee.

5.3.3.5 Modifications or Changes. Modifications to this Contract, if any, must be by written amendment executed with the same formalities as the original Contract.

5.3.3.6 Time of Essence. Time is of the essence in the performance of the duties and obligations of this Contract.

G. Qualifications

Solicitation of Architect-Engineering Services for the improvements of 7th Street from Riverside Drive/Martin Luther King Jr Boulevard to Eisenhower Parkway in Macon-Bibb County Georgia. The first phase of the project will be the development of a concept report to define the recommended scope of the project. Macon-Bibb County may negotiate with the selected firm for the subsequent design of the project, including preparation of all required environmental documents, development of drawings and specifications, development of right-of-way plans, acquisition of right-of-way, development of utility relocation plans and associated research, and inspection of the construction, at its option. The scope of the project is developed in more detail in the attached statement of work and draft engineering contract.

Title: Improve Seventh Street for Truck Route

Estimated Cost:	Right of Way:	\$1,000,000
	Utility:	\$600,000
	Construction	\$9,000,000
	Design Start:	April 2017
	Design Completion:	December 2017

The general scope of the project is to provide enhancements to 7th Street and connecting streets to enable it to be more congenial to truck traffic in order to encourage trucks use 7th Street to travel to Macon Chips, Inc. off Meade Road, rather than using Martin Luther King Jr. Blvd.

Anticipated improvements include a 7th Street overpass over the rail entrance to the Norfolk Southern Company's Brosnan Yard, an improved intersection of Walnut Street and 7th Street, a longer left turn lane on MLK for vehicles turning SE onto Walnut St., on or off-street bike lanes and sidewalks leading from the MLK bridge over the Ocmulgee River to Central City Park, an improved intersection of 7th St with Lower Boundary St leading to Eisenhower Parkway, and improvements at the intersection of MLK Blvd and Eisenhower Parkway. For further information on the project requirements please contact David Fortson, dfortson@maconbibb.us. The A-E must be prequalified by the Georgia Department of Transportation in the following areas.

The Prime Consultant must be qualified in the following area.

Number	Area Class
3.02	Urban Roadway Design

The Team (either the Prime Consultant and/or one or more of their sub-consultants and team members) **MUST** be prequalified by GDOT in the area classes listed below.

Number	Area Class
1.06(a)	NEPA Documentation
1.06(b)	History
1.06(c)	Air Studies
1.06(d)	Noise Studies
1.06(e)	Ecology
1.06(f)	Archaeology
1.06(g)	Freshwater Aquatic Surveys
1.10	Traffic Studies
3.06	Traffic Operations Studies
3.10	Utility Coordination
3.12	Hydraulic and Hydrological Studies (Roadway)
3.13	Bicycle and Pedestrian Facility Design
3.15	Highway Lighting and Outdoor Lighting
5.01	Land Surveying
5.02	Engineering Surveying
5.03	Geodetic Surveying
5.08	Overhead/subsurface Utility Engineering
6.01(a)	Soil Survey Studies
6.01(b)	Geological and Geophysical Studies
6.05	Hazardous Waste Site Assessment Studies

The local government may select the firm based on the documents submitted or it may elect to conduct telephone interviews or request the firms to make personal presentations to local officials. If interviews or presentations are required, a minimum of three firms will be asked to do this. Negotiations on the consulting fee will be conducted with the firm selected.

The contract awarded will be a project specific type. Price proposals will not be required until after the most qualified firm has been selected and only from that firm.

Submittals will be required 30 days following the publication date of this solicitation.

Responsibility

In order to be considered “*responsible*” the submitting firm must meet the following minimum qualifications:

- Three (3) years of experience providing the services included herein
- Licensed to do business in the State of Georgia
- Financially and Legally responsible to perform the services included herein

H. Reservations

Macon-Bibb County will not provide compensation to Respondents for any expenses incurred by the Respondent(s) for submittal preparation or for any demonstrations that may be made, unless otherwise expressly stated or required by law.

Each submission should be prepared simply and economically, providing a straightforward, concise description of your firm’s ability to meet the requirements of this RPS. Emphasis should be on completeness, clarity of content, responsiveness to the requirements, and an understanding of the Owner’s needs.

Macon-Bibb County makes no guarantee that an award will be made as a result of this RPS and reserves the right to accept or reject any or all submittals, with or without cause, waive any formalities or minor technical inconsistencies, or delete any item/requirement from this RPS or contract when deemed to be in the Owner’s best interest.

Macon-Bibb County will consider only representations made within the submission in response to this RPS. Owner will not be bound to act by any previous knowledge, communication or submission by the firms other than this RPS.

Failure to comply with the requirements contained herein may result in the submission being deemed “non-responsive” or “non-responsible”. None responsive submissions will not be reviewed for potential award.

Macon-Bibb County reserves the right to negotiate with the selected firm in the future for Engineering Designs, Drawings, and Related services; Right of Way acquisitions, and utility relocations.

I. Submittal Format

Submissions must be limited to a total of forty (40) pages and must be organized in a manner to display the required information in a well-organized manner.

J. SCORING (total possible number of points = 100)

Evaluation factors and their weight are as follows:

Factor	Points
Technical Approach (Project understanding Innovative concepts or alternatives, quality control procedures)	16
Work Experience	15
Specialized Expertise	15
Professional Licensure	2
Staff Capabilities	15
Workload Capacity	12
Past Performance	15
Qualified and Certified DBE including subconsultants	10

Scoring will be performed by a team of reviewers utilizing the Point Allocation Guidelines.

K. Award Basis

The local government may select the firm based on the documents submitted or it may elect to conduct telephone interviews or request the firms to make personal presentations to local officials. If interviews or presentations are required, a minimum of three firms will be asked to do this. Negotiations on the consulting fee will be conducted with the firm selected.

The contract awarded will be a project specific type. Price proposals will not be required until after the most qualified firm has been selected and only from that firm.

All consultants must comply with Federal EEO requirements. The consultants will also be held to ADA and Civil Rights language for the employing local government.

Negotiations will be conducted with the respondent with the highest number of points. If negotiations are not successful with the top firm, negotiations may be conducted with the firm with the second highest number of points, and on down the line until a successful contract has been awarded.