

AMENDMENT NO. 2

ISSUE DATE: DECEMBER 4, 2020

This Amendment shall become and form a part of the RFP for:

P.I. No. 0017389

The Statewide ITS DMS Deployment Design-Build Project

Chatham, Cherokee and Cobb Counties, GA

Note: please review carefully!

In the event of a conflict between previously released information and the information contained herein, the latter shall control.

NOTE: Acknowledgment of this Amendment No. 2 MUST be incorporated in your executed Form A (Proposal Letter).

This Amendment, including all articles and corrections listed below, shall become and form a part of the original RFP package and shall be taken into account in preparing your proposal.

The purpose of this amendment is to provide RFP section corrections:

1. Instructions to Proposers Exhibit C Introduction is hereby deleted in its entirety and replaced with the following:

The Proposer shall submit the Technical Proposal in accordance with this Exhibit C, submitted in the sequence indicated in Section C.1 below. The Technical Proposal shall be labeled appropriately and organized. Proposers shall not amend the order or change the section headings. The Technical Proposal shall be limited to an aggregate of six pages.

The Technical Proposal page count shall be as follows:

Section C.1.1: One page each for Lead Contractor and for Lead Design Consultant
Section C.1.2: Two pages maximum, including C.1.2(d) organization chart; note C.1.2(c) schematic plans will be excluded from page count,
Section C.1.3: Two pages maximum
Total pages: six

The organization chart and high-level Proposal Schedule output shall be submitted on 11X17-inch sheets. Each 11X17-inch sheet will be counted as one page.

All other pages shall be on 8-1/2X11-inch sheets.

Do not provide dividing sheets within the Technical Proposal.

2. Design-Build Agreement Volume 1 Exhibit 1 definition of Compensation Event is hereby deleted in its entirety and replaced with the following:

Compensation Event means any of the following events, subject to any limitations, claims submission requirements, and other conditions set forth in the Agreement, provided that no financial relief will be available to the extent that (i) the events are within Design-Build Team's control, or are due to any wrongful act, wrongful omission, negligence, recklessness, willful misconduct, breach of contract or Law or violation of a Governmental Approval of any of the Design-Build Team-Related Entities; (ii) the events (or the effects of such events) could have been avoided by the exercise of reasonable caution, due diligence, or other reasonable efforts by Design-Build Team:

- (a) Change in Law;
- (b) Discriminatory Action;
- (c) Material breach by GDOT of its material obligations under the Agreement or other DB Documents, including unreasonable failure to issue a certificate of Substantial Completion or a certificate of satisfaction of conditions precedent to Final Acceptance after Design-Build Team satisfies all applicable conditions and requirements for obtaining such certificates;
- (d) GDOT-Caused Delay, other than with respect to GDOT's failure to provide response to Design-Build Team Submittals as provided under clause (d) of the definition of a GDOT-Caused Delay;
- (e) GDOT Change;
- (f) A GDOT Release of Hazardous Material or remediation of Pre-Existing Hazardous Materials, but excluding the extent of any Design-Build Team Release of Hazardous Materials;
- (g) Issuance by a court in a legal proceeding challenging any approval of Environmental Documents or a temporary restraining order or other form of temporary injunction that prohibits prosecution of any material portion of the Work, unless the injunction is the result of an action or inaction by the Design-Build Team;
- (h) Any change in the design concept of the Project or any portion thereof resulting from judicial or administrative action taken with respect to a legal challenge to any approval of Environmental Documents as compared to the design concept indicated in the alternative that was the subject of the approval of Environmental Documents, except to the extent the change in design concept had already been incorporated into Design-Build Team's design schematics as approved pursuant to this Agreement;
- (i) Subject to clause (n) of this definition of a Compensation Event, failure to obtain, or unreasonable and unjustified delay in obtaining or otherwise maintaining once issued, a Governmental Approval from any Governmental Entity, except to the extent that such failure or delay results from failure by any Design-Build Team-Related Entity to locate or design the Project or carry out the work in accordance with the approval of Environmental Documents or other Governmental Approval (which failure may include (i) modification by or on behalf of Design-Build Team of the design concept included in the approval of Environmental Documents, (ii) means or methods used by any Design-Build Team-Related Entity for carrying out the Work, or (iii) decision or action by or on behalf of Design-Build Team to use or acquire Additional Property);
- (j) GDOT's (i) lack of good and sufficient title to any parcel in the Existing Right of Way or the State Proposed/State Acquired Right of Way or Property owned by GDOT, to the extent it interferes with or adversely affects performance of Work, (ii) inability or failure to obtain an interest (including by easement or other right of access) to real property not identified in the State Proposed/State Acquired Right of Way and required for construction of the Project as demonstrated by Design-Build Team, exclusive of any Additional Properties, Project Specific Locations, or parcels that are solely for the convenience of Design-Build Team, to the extent it interferes with or adversely affects performance of Work, or (iii) the existence at any time following issuance of NTP 3 of any title reservation, condition, easement or encumbrance on any parcel in the Existing Right of Way or Property owned by GDOT, of record or not of record, to the extent it interferes with or adversely affects performance of Work, except any title reservations, conditions, easements or encumbrances (A) concerning Utilities or (B) caused, permitted or suffered by a Design-Build Team-Related Entity;

(k) Failure to obtain, or unreasonable and unjustified delay in obtaining, an approval from GDOT with respect to a Permitted Design Exception, except to the extent that such failure or delay in obtaining the GDOT approval results from failure by any Design-Build Team-Related Entity to carry out the Work in accordance with the DB Documents;

(l) Failure to obtain, or unreasonable and unjustified delay in obtaining, a Governmental Approval required for a re-evaluation of an approval of Environmental Documents due to an approved ATC; provided that Design-Build Team shall only be entitled to compensation for such failure or delay after expiration of the applicable GDOT Re-evaluation Period;

(m) Performance of work in the Construction Maintenance Limits or Operations and Maintenance Limits, by Separate Contractors within the ROW, carried out by or on behalf of GDOT or a Governmental Entity, excluding any Utility Adjustment Work by a Utility Owner, that directly disrupts DB Team's onsite Work; or

(n) Material delays as a result of any modification to the approval of Environmental Documents, as a result of the Environmental Documents, and all approved supplements and re-evaluations pertaining to the Project as of the Effective Date provided that any such modifications are not the result of an ATC, Additional Properties, or attributable to Design-Build Team's design.

3. Design-Build Agreement Volume 1 Exhibit 1 is amended to add the following definition for Compensation Event Determination:

Compensation Event Determination has the meaning set forth in Article 14.2 (Relief Event and Compensation Event Determination).

4. Design-Build Agreement Volume 1 Exhibit 1 definition of Compensation Event Notice is hereby deleted in its entirety and replaced with the following:

Compensation Event Notice means the written notice submitted by Design-Build Team in accordance with Article 14.1.1 (DB Team's Notice of Compensation Event and/or Relief Event).

5. Design-Build Agreement Volume 1 Exhibit 1 definition of Relief Event is hereby deleted in its entirety and replaced with the following:

Relief Event means any one or more of the following events, subject to any limitations, claims, submission requirements, and other conditions set forth in the Agreement, provided that no relief will be available to the extent that (i) the events are within DB Team's control or are due to any wrongful act, wrongful omission, negligence, recklessness, willful misconduct, breach of contract or Law or violation of a Governmental Approval of any of the DB Team-Related Entities; or (ii) the events (or the effects of such events) could have been avoided by the exercise of reasonable caution, due diligence, or other reasonable efforts by Design-Build Team:

- (a) Force Majeure Event;
- (b) Latent defects in Existing Improvements;
- (c) Change in Law;
- (d) Discriminatory Action;

(e) GDOT's failure to perform or observe any of the covenants or obligations of GDOT under the Agreement or other DB Documents;

- (f) GDOT Change;
- (g) GDOT-Caused Delay;
- (h) Performance of work in the Construction Maintenance Limits or Operations and Maintenance Limits, by Separate Contractors within the ROW, carried out by or on behalf of GDOT or a Governmental Entity, excluding any Utility Adjustment Work by a Utility Owner, that directly disrupts DB Team's onsite Work, and delays the Critical Path of the Work;
- (i) Discovery at, near or on the Existing Right of Way or Property of (a) any Pre-existing Hazardous Materials or Hazardous Materials not otherwise constituting a DB Team Release of Hazardous Materials, provided that where such condition was identified in the existing Phase 1 Hazardous Materials Investigation in the RIDs, in which case DB Team shall account for same in the Project Schedule and impacts shall be limited to such conditions not identified therein (whether in type or quantity), or (b) any archeological, paleontological or cultural resources not known or which could not have reasonably been known to the DB Team prior to the Proposal Due Date;
- (j) Discovery at, near or on the Existing Right of Way or Property of any Threatened or Endangered Species (regardless of whether the species is listed as threatened or endangered as of the Proposal Due Date), excluding any such presence of species known to DB Team prior to the Proposal Due Date or that would become known to DB Team by undertaking reasonable investigation prior to the Proposal Due Date;
- (k) Any spill of Hazardous Material by a third party who is not acting in the capacity of a DB Team-Related Entity which (i) occurs after the Proposal Due Date, (ii) is required to be reported to a Governmental Entity and (iii) renders use of the roadway or construction area unsafe or potentially unsafe absent assessment, containment and/or remediation;
- (l) Issuance of a temporary restraining order or other form of injunction by a court that prohibits prosecution of any material portion of the Work, unless the injunction is the result of an action or inaction by the Design-Build Team;
- (m) Suspension, termination or interruption of an approval of Environmental Documents, except to the extent that such suspension, termination or interruption results from failure by any DB Team-Related Entity to locate or design the Project or carry out the work in accordance with the approval of Environmental Documents or other Governmental Approval (which failure may include (i) modification by or on behalf of Design-Build Team of the design concept included in the Environmental Documents approval, (ii) means or methods used by any Design-Build Team-Related Entity for carrying out the Work, or (iii) decision or action by or on behalf of Design-Build Team to use or acquire Additional Property);
- (n) Any change in the design concept of the Project or any portion thereof resulting from judicial or administrative action taken with respect to a legal challenge to any approval of Environmental Documents as compared to the design concept indicated in the alternative that was the subject of the approval of Environmental Documents, except to the extent the change in design concept had already been incorporated into Design-Build Team's design schematics assumed in connection with the Contract Sum;
- (o) Subject to clause (s) of this definition of a Relief Event, failure to obtain, or unreasonable and unjustified delay in obtaining or otherwise maintaining once issued, a Governmental Approval from any Governmental Entity, except to the extent that such failure or delay results from failure by any Design-Build Team-Related Entity to locate or design the Project or carry out the work in accordance with the approval of Environmental Documents or other Governmental Approval (which failure may include (i) modification by or on behalf of Design-Build Team of the design concept included in the approval of Environmental Documents, (ii) means or methods used by any Design-Build Team-Related Entity for carrying out the Work,

or (iii) decision or action by or on behalf of Design-Build Team to use or acquire Additional Property);

(p) GDOT's (i) lack of good and sufficient title to any parcel in the Existing Right of Way or the Property, to the extent it interferes with or adversely affects performance of Work, (ii) inability or failure to obtain an interest (including by easement or other right of access) to real property not identified in the Proposed Right of Way and required for construction of the Project as demonstrated by Design-Build Team, exclusive of any Additional Properties, Project Specific Locations, or parcels that are solely for the convenience of Design-Build Team, to the extent it interferes with or adversely affects performance of Work, or (iii) the existence at any time following issuance of NTP 3 of any title reservation, condition, easement or encumbrance on any parcel in the Existing Right of Way or Property owned by GDOT, of record or not of record, to the extent it interferes with or adversely affects performance of Work, except any title reservations, conditions, easements or encumbrances concerning Utilities or otherwise caused, permitted or suffered by a Design-Build Team-Related Entity;

(q) Unreasonable and unjustified delay by a Utility Owner with whom Design-Build Team has been unable to enter into a Utility Agreement in connection with a Utility Adjustment, or failure or delay of any Utility in obtaining any required easement, right of way, or other property interest as may be required, provided that all of the "conditions to assistance" described in Article 7.5.4 (Failure of Utility Owners to Cooperate/Escalation) have been satisfied;

(r) Failure to obtain, or unreasonable and unjustified delay in obtaining, an approval from GDOT with respect to a Permitted Design Exception, except to the extent that such failure or delay in obtaining the GDOT approval results from failure by any Design-Build Team-Related Entity to carry out the Work in accordance with the DB Documents;

(s) Failure to obtain, or unreasonable and unjustified delay in obtaining, a Governmental Approval required for a re-evaluation of an approval of Environmental Documents due to an approved ATC; provided that Design-Build Team shall only be entitled to relief for such failure or delay after expiration of the applicable GDOT Re-evaluation Period; or

(t) Material delays as a result of any modification to the approval of Environmental Documents, as a result of the Environmental Documents, and all approved supplements and re-evaluations pertaining to the Project as of the Effective Date provided that any such modifications are not the result of an ATC, Additional Properties, or attributable to Design-Build Team's design.

6. *Design-Build Agreement Volume 1 Exhibit 1 definition of Relief Event Determination is hereby deleted in its entirety and replaced with the following:*

Relief Event Determination has the meaning set forth in Article 14.2 (Relief Event and Compensation Event Determination).

7. *Design-Build Agreement Volume 1 Exhibit 1 definition of Relief Event Notice is hereby deleted in its entirety and replaced with the following:*

Relief Event Notice means the written notice required to be provided by Design-Build Team under Article 14.1.1 (DB Team's Notice of Compensation Event and/or Relief Event).

END – AMENDMENT NO. 2