



COBB COUNTY DEPARTMENT OF TRANSPORTATION

1890 County Services Parkway
Marietta, Georgia 30008-4014
(770) 528-1600 • Fax: (770) 528-1601

REQUEST FOR PROPOSALS

Date: September 25, 2020

To: Qualified Engineering Consulting Firms

**Re: Request for Proposals for Engineering Consulting Services
Project No. X2706, Powder Springs Road Trail**

The Cobb County Department of Transportation is requesting non-cost technical proposals for Engineering Consulting Services for the above referenced projects.

Selection Process 1, Competitive Negotiations, as defined in the Cobb County *Policy for the Procurement of Professional Services*, will be used to select the highest qualified consultant submitting a proposal for this project. A copy of the Procurement Policy can be found on the Cobb County Department of Transportation website (<https://www.cobbcounty.org/transportation/policies-permitting/procurement-bidding>).

The current funding for this project is from the 2016 One Percent Special Purpose Local Option Sales Tax. However, the Cobb County Department of Transportation is seeking additional Federal and State funding support. Accordingly, the successful firm will be required to comply with all applicable Federal, State, and County rules and regulations.

All engineering services shall be in accordance with Cobb County Department of Transportation Engineering Design Procedures, applicable guidelines of the American Association of State Highway and Transportation Officials, Georgia Department of Transportation's (GDOT) Standard Specifications for the Construction of Transportation Systems, Project Schedules, and Plan Presentation Guidelines, and all other applicable Cobb County Department of Transportation guidelines. Additionally, engineering services shall be in accordance to future Federal or State funding award including Federal Transit Administration (FTA), Federal Highway Administration (FHWA), National Park Services (NPS), and GDOT. All project deliverables must be submitted to Cobb County Department of Transportation for review and approval.

Should FTA funds be used for the Project, the successful Proposer will be required to comply with all applicable FTA, Federal and State rules and regulations, as well as those of Cobb County. Proposers shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement, as they may be amended or promulgated from time to time during the term of this contract. The Current FTA Master Agreement, is located at: <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>, and Circular FTA C 4220.1F Rev. 4 dated March 18, 2013, is located at: <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance>.

PREQUALIFICATION CRITERIA

All Consultants, including subconsultants, should be pre-qualified with Georgia Department of Transportation OR Cobb County Department of Transportation. Prequalification with GDOT is accepted as prequalification with Cobb County, and no additional submission is necessary. For those firms without Georgia Department of Transportation prequalification, Cobb County Department of Transportation prequalification is required. Additionally, prequalification will be required prior to contract award but not prior to proposal submittal.

Prime Consultant - Area Class Required:

- 3.01 Two – Lane or Multi-lane Rural Roadway Design
- 3.02 Two – Lane or Multi-lane Urban Roadway Design

Prime Consultant and/or Subconsultants - Area Class Required:

- 1.06(a) NEPA Documentation
- 1.06(b) History
- 1.06(c) Air Quality Studies
- 1.06(e) Ecology
- 1.06(d) Noise
- 1.06(f) Archeology
- 1.10 Traffic Studies
- 3.06 Traffic Operations Studies
- 3.07 Traffic Operations Design
- 3.08 Landscape Architecture Design
- 3.13 Bicycles and Pedestrians Facility Design
- 5.01 Land Surveying
- 5.02 Engineering Surveying
- 6.01(a) Soil Survey Studies
- 9.01 Erosion Sedimentation and Pollution Control Plan

PROJECT COMMUNICATION RESTRICTION

Consultants shall not communicate or request information about this project with any Cobb County employee staff members or Board of Commissioners members except during the written question/comment period, or as provided by any existing consultant agreement/s. This restriction is in effect beginning from the advertisement date until the project is awarded by the Board of Commissioners.

PROJECT LIMITS AND OVERVIEW

This proposed project consists of a 10-foot multi-use trail on the south side of Powder Springs Road (SR 360). The project, in conjunction with the existing sidewalks, trails, and Kennesaw Mountain Pedestrian Improvements, will provide miles of continuous connection throughout Cobb County and the City of Marietta. The project limits begin at Cheatham Hill Road/Callaway Road and extend east to County Services Parkway for approximately 1 mile.

Consultants are encouraged to include value-added benefits into their approach for this proposal including but not limited to measures resulting in cost savings, reduction in right-of-way impacts, avoidance of utility impacts, and designs to reduce long term maintenance.

PRE-PROPOSAL CONFERENCE

A non-mandatory Pre-Proposal Conference will be held virtually via WebEx at 9:30 a.m. on October 7, 2020. Please register for the meeting at <https://cobbcounty.webex.com/cobbcounty/onstage/g.php?MTID=ecec21c43d57d9775a2cac29208bd62a0>. Registration will remain open until the start of the meeting.

GENERAL SCOPE OF SERVICE

Engineering Consulting Services shall be furnished in accordance with the Cobb County Department of Transportation's Consultant Services Agreement, the current Engineering Design Procedures Manual (located at <https://www.cobbcounty.org/transportation/policies-permitting/design>), and the Cobb County Water System's Water and Sewer Specifications. Services sought by this Request for Proposal shall include the following:

- A. Survey Database
- B. Concept
- C. Preliminary Design/Plans
- D. Right of Way Design/Plans,
- E. Final Design/Plans
- F. Environmental Document (In compliance with FTA, FHWA, or NPS guidelines per future funding source)

The proposer will be responsible for preparing utility plans. However, Cobb County DOT Utility Coordinator will be responsible for utility coordination/submittals, relocation agreements, and encroachment agreements. Water and sewer work on this project will be coordinated with the Cobb County Water System. Cobb County Water System will be responsible for all design work to their facilities. The consultant will be responsible for incorporating the water and sewer plans into the final construction plan set, and the appropriate pay items and quantities into the detailed estimate and bid documents. The ability to perform water and sewer work is **not** considered in the proposal evaluation process.

Cobb County Department of Transportation will make available the County Geographic Information System (GIS) data specific to this project for use in developing the concept and design to the successful proposer after the contract for this project is awarded. Firms desiring to use Cobb County aerial photography in the preparation of their proposals can view and/or print copies of the photography from the online GIS website at <https://www.cobbcounty.org/gis>, or can purchase the data from the Cobb County GIS Core Group.

PROPOSAL FORMAT / SUBMITTING PROCEDURES

If your firm is interested in submitting a non-cost technical proposal for this project, please provide **eight (8) copies (1 original and 7 copies are acceptable)** of the technical proposal as indicated below. **The technical proposal shall cover the following and be formatted in the listed order: 1) Staffing, 2) Experience and Performance, 3) Approach, 4) Availability, and 5) Financial Stability.** Additionally, all addendum acknowledgement forms are to be signed and included in the proposal. See the "Evaluation Criteria" section of this RFP for information to be included for each of these criteria areas.

The technical proposal shall be limited to twenty (20) pages. **Proposals submitted in excess of twenty (20) pages will not be reviewed.** The following items will be considered part of the twenty

(20) page limit: cover letter, resumes, promotional information, drawings or illustrations (i.e. typical sections), maps, reference letters, proposed concepts, pictures, project information sheets, and litigation history. Litigation History is only required for the Prime Firm. An 11" x 17" page folded to 8-1/2" x 11" will count as one page up to a maximum of five (5) 11" x 17" pages per proposal.

The following items **DO NOT** count toward the twenty (20) page limit: proposal cover, addendum, table of contents, dividers, financial stability information, consultant affidavit and agreements, subconsultant affidavit and agreements, immigration compliance certifications, letter of intent, DBE participation schedule, government-wide debarment and suspension, and lobbying restrictions.

The technical proposals shall be sealed in an envelope or box with your firm's name and **"PROPOSAL FOR POWDER SPRINGS ROAD TRAIL, PROJECT NO. X2706"** clearly marked on the front.

Pre-Proposal Conference (non-mandatory)	October 7, 2020 at 9:30 a.m. (Virtual Meeting)
--	---

Deadline for Written Questions October 16, 2020, 5:00 p.m.
Email: Purchasing@cobbcounty.org

Proposal Submittal **October 22, 2020, 12:00 Noon**
Cobb County Purchasing
122 Waddell Street
Marietta, GA 30060

Proposal Opening **October 22, 2020, 2:00 p.m.**
Cobb County Purchasing
122 Waddell Street
Marietta, GA 30060

Proposals submitted after the 12:00 Noon deadline shall be considered non-responsive and will not be opened. DO NOT DELIVER PROPOSALS TO THE COBB COUNTY DEPARTMENT OF TRANSPORTATION OFFICE.

EVALUATION CRITERIA

The technical proposals will be evaluated and ranked, with the three top-ranked proposals presented to the Board of Commissioners for approval for the Cobb County Department of Transportation to negotiate the final scope of services and fee with the Consultant submitting the top-ranked proposal. The evaluation of the technical proposals shall include the following criteria:

1. Staffing – Evaluation of the list of personnel specifically assigned (prime and subconsultants) to the proposed project, including their qualifications, overall experience and recent experience on projects of similar scope and complexity to the proposed project. **(25 points)**
2. Experience/Performance – Review of past performance on Cobb County projects or other projects of similar nature and complexity as the proposed project; evaluation of client references whether included in the proposal response or not; evaluation of litigation history for the past five (5) years, including for each case: style of the case, parties to the litigation, court in which litigation was filed, and civil action number; nature of claims; whether the case is pending or resolved, and, if resolved, the date of and manner in which it was resolved (e.g., relief granted

by court, settlement by or among parties, dispositive motion, trial verdict); overall responsiveness to County's needs. **(25 points)**

3. Approach – Evaluation of the overall understanding of the scope of the proposed project; completeness, adequacy and responsiveness to the required information of the request for proposals. **(35 points)**
4. Availability – Evaluation of the work load of the proposing firm and the staffing to be assigned to the proposed project; proposed project schedule; time schedule of the proposer in relation to that of the proposed project location of the offices or facilities from which the services are to be provided to the County. **(10 points)**
5. Financial Stability – Financial Stability of the top proposer(s) will be evaluated by the Finance Department in the following areas: Liquidity Ratios (1 point); Financial Leverage Ratios (2 points); Profitability Ratios (1 point); and whether an audited or reviewed Financial Statement is submitted with the Proposal (1 point). A maximum of 5 points may be awarded. Finance will notify the selection committee of points to be awarded to the top proposers. **(5 points)**

The Proposer is to submit the following ratios (accompanied by a letter from a CPA verifying review of financial ratios), which will be used to rank Financial Stability:

Financial Evaluation of Bidder			
Liquidity Ratios			
Current Ratio			Current Assets/ Current Liabilities
Cash Ratio		1	Cash and Cash Equivalents / Current Liabilities
Financial Leverage Ratios			
Debt Ratio			Long Term Debt / Total Assets
Debt to Equity Ratio		2	Long Term Debt / Total Equity
Profitability Ratios			
Return on Assets			Net Income / Total Assets
Return on Equity		1	Net Income / Total Equity
Audited or Reviewed		1	
Total Points		5	

If the Proposer provides a performance bond, the five (5) points associated with Financial Stability will automatically be awarded.

If the top proposer receives two (2) points or less the County will hold 10% retainage until the project is 50% complete, 5% retainage until the project is 90% complete, and 2.5% retainage until the project is 100% complete. Vendors may submit their financials in a separate sealed envelope but that does not exempt the financials from public disclosure. All documents will be available for public inspection after the contract has been awarded.

GENERAL TERMS

The successful proposer shall be required to sign as part of the terms and conditions of their being engaged by the County the following statements regarding Conflict of Interest, Contingency Fees, and Certification of Subcontractors:

- A. **CONFLICT OF INTEREST** -The Consultant certifies that, to the best of the Consultant's knowledge, no circumstances exist which will cause a Conflict of Interest in performing the services required by this contract, that no employee of the County, nor any member thereof, nor any public agency or official affected by this Agreement, has any pecuniary interest in the business of the Consultant or his Subcontractor(s), and that no person associated with the Consultant or the Consultant's Subcontractor(s) has any interest that would conflict in any manner or degree with the performance of the Agreement.

Should the Consultant become aware of any circumstances which may cause a Conflict of Interest during the term of this contract, the Consultant shall immediately notify the County. If the County determines that a Conflict of Interest exists, the County may require that the Consultant take action to remedy the Conflict of Interest or terminate the agreement without liability. The County shall have the right to recover any fees paid for services rendered by the Consultant which were performed while a Conflict of Interest existed if the Consultant had knowledge of the Conflict of Interest and did not notify the County within one (1) week of becoming aware of the existence of the Conflict of Interest.

- B. **PROHIBITION AGAINST CONTINGENT FEES** – The Consultant warrants that the Consultant nor the Consultant's Subcontractor(s) have not employed or retained any company or person other than a bona fide employee working solely for the consultant or Subcontractor(s) to solicit or secure this Agreement and that the Consultant nor the Consultant's Subcontractor(s) have not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Consultant or the Consultant's Subcontractor(s) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award of this Agreement. For any breach or violation of this provision, the County shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the price, or otherwise recover, the full amount of such fee, commission, percentage, gift, payment, or consideration.
- C. **CERTIFICATION OF SUBCONTRACTORS.** The Consultant shall require each of the Consultant's Subcontractor(s) to sign a statement certifying to and agreeing to comply with the terms and conditions of A. and B. above. Such signed statements shall be on forms provided by the County. The Consultant shall return such executed forms to the County and they shall be incorporated in and become a part of the Agreement. No compensation shall be payable to the Consultant until executed certifications are received by the County for all of the Consultant's Subcontractors.

The Cobb County, Georgia, Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d—42 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, disability, or age in consideration for an award.

The Consultant and their subcontractor(s) are required to be in compliance with the "*Georgia Security and Immigration Compliance Act*." The Consultants must execute and submit *Evidence of Compliance, Contractor Affidavit and Agreement, Subcontractor Affidavit and Agreement*, if applicable, and *Immigration and Compliance Certification* forms (attached) as part of their proposal.

The use of FTA dollars is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The County's overall goal for Disadvantaged Business Enterprises (DBE) participation on FTA assisted projects is 7%. While not all contracts are held to this goal, all firms responding are strongly encouraged to consider the use of DBE in all aspects of the contract. Consultants must submit a DBE participation report to the County prior to beginning work on a project and a final DBE report must be submitted at the end of a project. Monthly DBE reports must be submitted with each monthly invoice. Any subsequent changes and/or substitutions of DBE firms from the original DBE Participation Schedule must be submitted and approved by the County in advance. DBE firms must be certified with the Georgia Department of Transportation's Equal Employment Opportunity (EEO) office.

Like DBE, Small Business Participation (SBP) is strongly encouraged in all DOT contracts. No Small Business reports are currently required; however, this is subject to change at the **County's** discretion.

Cobb County reserves the right to reject any or all proposals submitted, or, where it may serve the best interest of the County, to request additional information or clarification from proposers. The County, in its sole discretion, also reserves the right to waive any informalities or technicalities relative to any and all proposals. At the County's discretion, presentations may be requested as part of the evaluation process. The County reserves the right to retain all proposals submitted, and to use any idea in any proposal regardless of whether the proposal is selected.

There is no expressed or implied obligation for Cobb County to reimburse any firm for any expense incurred in preparing or presenting a proposal in response to this request for proposals.

Any questions must be received no later than Friday, October 16, 2020 by 5:00 p.m. All questions should be sent via email to Purchasing@CobbCounty.org. DO NOT CONTACT OR SEND QUESTIONS TO COBB COUNTY DEPARTMENT OF TRANSPORTATION.

Sincerely,

COBB COUNTY DEPARTMENT OF TRANSPORTATION

Rustavius Ford  Digitally signed by Rustavius Ford
Date: 2020.09.25 08:19:29 -04'00'

Rustavius Ford, PE
Pre-Construction Engineer

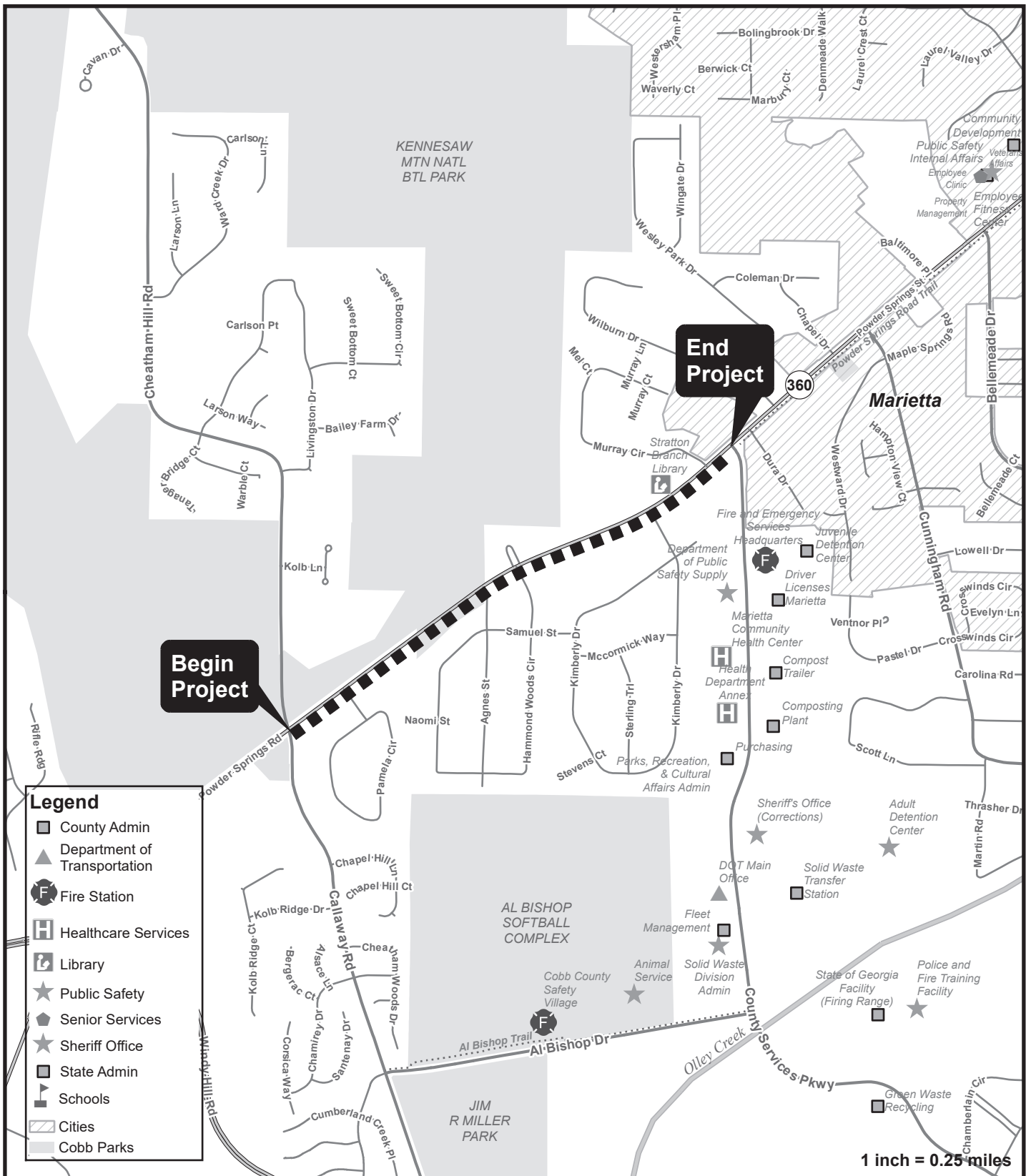
Attachment(s):

Project Location Map
Attachment A – Georgia Security and Immigration Compliance Act Forms
Attachment B – FTA Required Federal Certifications

Cc: Erica Parish, P.E., Director CCDOT (electronic copy)
Drew Raessler, P.E., Deputy Director CCDOT (electronic copy)
Michael Francis, Transportation Division Manager CCDOT (electronic copy)
Karyn Matthews, Project Manager CCDOT (electronic copy)
Purchasing (electronic copy & hard copy)
Project File

LOCATION MAP

LOCATION MAP



Department of Transportation

PROJECT:
Powder Springs Road Trail
Project No. X2706

DATE: September 25, 2020



Notes: Commission District 1

ATTACHMENT A

**GEORGIA SECURITY AND IMMIGRATION COMPLIANCE
FORMS AND AFFIDAVITS**

(TO BE COMPLETED AND SUBMITTED WITH PROPOSALS)

**EVIDENCE OF COMPLIANCE
WITH
GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT**

The County and Contractor agree that compliance with the requirements of O.C.G.A. Sec. 13-10-91 and Rule 300-10-1-.02 of the Rules of the Georgia Department of Labor are conditions of this Agreement for the physical performance of services.

The Contractor represents that it employs:

_____ 500 or more employees;
_____ 100 or more employees; or
_____ fewer than 100 employees

(Contractor must initial appropriate category).

The Contractor further agrees that its compliance with the requirements of O.C.G.A. Sec. 13-10-91 and DOL Rule 300-10-1-.02 is attested to on the executed Contractor Affidavit and Agreement attached hereto as EXHIBIT A.

If employing or contracting with any subcontractor(s) in connection with this Agreement, Contractor further agrees:

- (1) To secure from the subcontractor(s) such subcontractor(s)' indication of the employee-number category applicable to the subcontractor(s); and
- (2) To secure from the subcontractor(s) an affidavit attesting to the subcontractor's compliance with O.C.G.A. Sec. 13-10-91 and DOL Rule 300-10-1-.02; such affidavit being in the form attached hereto and referenced as EXHIBIT A-1; and
- (3) To submit such contractor affidavit(s) to the County when the subcontractor(s) is retained, but in any event, prior to the commencement of work by the subcontractor(s),
- (4) To submit to the County, such contractor and subcontractor affidavit(s) of "Immigration Compliance Certification," EXHIBIT A-2,

The failure of Contractor to comply with any of the requirements and procedures of the County (i.e. failure to timely supply required affidavits or compliance certification documents; failure to utilize federal work authorization procedures; failure to permit or facilitate audits or reviews of records by County or State officials upon request; and/or failure to continue to meet any of the statutory or County obligations) and to supply the affidavit of compliance at the time of execution of this Agreement and/or the failure of the Contractor to continue to satisfy the obligations of O.C.G.A. Sec. 13-10-91 and DOL Rule 300-10-1-.02 as set forth in this Agreement and during the term of the Agreement shall constitute a material breach of the Agreement and shall entitle the County to dismiss any general contractor or to require the dismissal of any subcontractor of sub/subcontractor (irrespective of tier) for failing to fully comply with these requirements and that upon notice of a material breach of these provisions, the Contractor shall be entitled to cure the breach within ten (10) days and provide evidence of such cure and in compliance with the terms of this Agreement and State law. Should the breach not be cured, the County shall be entitled to all available remedies, including termination of the contract, the requirement that a subcontractor be dismissed from performing work under the contract, and any and all damages permissible by law.

SEE AFFIDAVIT ON THE FOLLOWING PAGE

**CONTRACTOR AFFIDAVIT & AGREEMENT
(EXHIBIT A)**

This affidavit must be signed, notarized and submitted with any proposal requiring the performance of physical services. If the affidavit is not submitted with the proposal, proposal will be determined non-responsive and will be disqualified.

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is contracting with Cobb County, Georgia, has registered with, is authorized to use, and is participating in a federal work authorization program (an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA)). The undersigned contractor further attests that it will continue to use the federal Employment Eligibility Verification (EEV) work authorization program throughout the contract period.

The undersigned further agrees that should it employ or contract with any subcontractor(s) or should its subcontractor(s) employ other subcontractor(s) for the physical performance of services pursuant to the contract with Cobb County, Georgia, the contractor or subcontractor will:

- (1) Notify the County within five business days of entering into a contract or agreement for hire with any subcontractor(s);
- (2) Secure from any subcontractor(s) and/or their subcontractor(s) verification of compliance with O.C.G.A. § 13-10-91 on the attached Subcontractor Affidavit & Agreement (EXHIBIT A-1) prior to the commencement of any work under the contract/agreement;
- (3) Secure from any subcontractor(s) and/or their subcontractor(s) a completed Immigration Compliance Certification (EXHIBIT A-2) prior to the commencement of any work under the contract/agreement;
- (4) Provide the subcontractor(s) with legal notice that Cobb County, Georgia, reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the affidavit and/or for failure to comply with the requirements referenced in the affidavit;
- (5) Maintain records of such compliance and provide a copy of each such verification to Cobb County, Georgia, at the time the subcontractor(s) is retained to perform such services or upon any request from Cobb County, Georgia; and
- (6) Maintain such records for a period of five (5) years.

EEV (E-Verify) Program User ID Number

EEV Program Date of Authorization

BY: Authorized Officer or Agent
[Contractor Name]

Contractor Business Name

Printed Name

Date

SWORN AND SUBSCRIBED BEFORE ME
ON THIS THE ____ DAY OF _____, 201__

Notary Public

Commission Expires: _____

(Effective 9/20/2013 Supersedes All Previous Versions)

**SUBCONTRACTOR AFFIDAVIT & AGREEMENT
(EXHIBIT A-1)**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of Cobb County, Georgia, has registered with, is authorized to use, and is participating in a federal work authorization program (an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA)). The undersigned subcontractor further attests that it will continue to use the federal Employment Eligibility Verification (EEV) work authorization program throughout the contract period.

The undersigned further agrees that should it employ or contract with any subcontractor(s) or should its subcontractor(s) employ other subcontractor(s) for the physical performance of services pursuant to the contract with Cobb County, Georgia, the undersigned subcontractor will:

- (1) Notify the County within five business days of entering into a contract or agreement for hire with any subcontractor(s);
- (2) Secure from any subcontractor(s) and/or their subcontractor(s) verification of compliance with O.C.G.A. § 13-10-91 on this Subcontractor Affidavit & Agreement (EXHIBIT A-1) form prior to the commencement of any work under the contract/agreement;
- (3) Secure from any subcontractor(s) and/or their subcontractor(s) a completed Immigration Compliance Certification (EXHIBIT A-2) prior to the commencement of any work under the contract/agreement;
- (4) Provide the subcontractor(s) with legal notice that Cobb County, Georgia, reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the affidavit and/or for failure to comply with the requirements referenced in the affidavit; and
- (5) Maintain records of such compliance and provide a copy of each such verification to Cobb County, Georgia, at the time the subcontractor(s) is retained to perform such services or upon any request from Cobb County, Georgia; and
- (6) Maintain such records for a period of five (5) years.

EEV (E-Verify) Program User ID Number

EEV Program Date of Authorization

BY: Authorized Officer or Agent
[Subcontractor Name]

Subcontractor Business Name

Printed Name

Date

SWORN AND SUBSCRIBED BEFORE ME
ON THIS THE ____ DAY OF _____, 201__

Notary Public
Commission Expires: _____

(Effective 9/20/2013 Supersedes All Previous Versions)

IMMIGRATION COMPLIANCE CERTIFICATION
(To be completed by Contractor and all Subcontractors)
(EXHIBIT A-2)

I certify to the Cobb County Board of Commissioners that the following employees will be assigned to:

<hr/>		
<i>(Project Name/Description)</i>		
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

I further certify to Cobb County, Georgia the following:

- The E-Verify program was used to verify the employment eligibility of each of the above-listed employees hired after the effective date of our contract to use the program;
- We have not received a Final Nonconfirmation response from E-Verify for any of the employees listed.
- If we receive a Final Nonconfirmation response from E-Verify for any of the employees listed above, we will immediately terminate that employee's involvement with the project.
- I have confirmed that we have an I-9 on file for every employee listed above and that to the best of my knowledge all the I-9s are accurate.
- To the best of my knowledge and belief, all of the employees on the above list are legally authorized to work in the United States.
- If any other employee is assigned to this Cobb County project, a certification will be provided for said employee prior to the employee commencing work on the project.

To the best of my knowledge and belief, the above certification is true, accurate and complete.

Sworn to by:

Employer Name & Address:

Signature of Officer

Printed Name/Title

Date

SWORN AND SUBSCRIBED BEFORE ME
ON THIS THE ____ DAY OF _____, 201__

Notary Public
Commission Expires: _____

(Effective 9/20/2013 Supersedes All Previous Versions)

Attachment B

FTA Required Federal Certifications

(Will Only Apply if FTA funds are used)

After reviewing “Attachment B”, please complete and return the following as part of your Proposals:

1. DBE Participation Schedule – To be completed by Proposer only
2. Letter of Intent – To be completed for each DBE Firm
3. Lobbying Restrictions – To be completed by Proposer and all Subconsultants
4. Government-Wide Debarment and Suspension - To be completed by Proposer and all Subconsultants

SPECIAL NOTIFICATION REQUIREMENTS

FTA Master Agreement

Federal grant monies fund this contract, in whole or in part. As such, the county receiving such funds and consultants awarded contracts that use such funds must comply with certain Federal certifications and clause requirements. It is the consultant's responsibility to be aware of the pertinent certifications and contract clauses, as identified by the Issuing Agency and ensure compliance with such requirements throughout the term of this contract.

FEDERAL CHANGES

49 CFR Part 18

Federal Changes – Consultant shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the [Master Agreement](#) between County and FTA, as they may be amended or promulgated from time to time during the term of this contract. Consultant's failure to comply shall constitute a material breach of this contract. The Federal Changes requirement flows down appropriately to each applicable changed requirement.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

FTA Circular 4220.1F

Incorporation of Federal Transit Administration (FTA) Terms - The following provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in [FTA Circular 4220.1F](#) are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Consultant shall not perform any act, fail to perform any act, or refuse to comply with any County requests which would cause Consultant to be in violation of the FTA terms and conditions. The incorporation of FTA terms applies to all contracts.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The No Obligation clause extends to all third-party contracts and their contracts at every tier and subrecipients and their subcontracts at every tier. The Recipient and Consultant acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, Consultant or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract.

The Consultant agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subconsultant who will be subject to its provisions.

ACCESS TO RECORDS AND REPORTS

49 U.S.C. § 5325(g)

2 C.F.R. § 200.333

49 C.F.R. part 633

Under 49 U.S.C. § 5325(g), FTA has the right to examine and inspect all records, documents, and papers, including contracts, related to any FTA project financed with Federal assistance authorized by 49 U.S.C. Chapter 53. The record keeping and access requirements extend to all third-party contracts and their contracts at every tier and subrecipients and their subcontracts at every tier.

1. **Record Retention.** The Consultant will retain, and will require its subconsultants of all tiers to retain, complete and have readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.
2. **Retention Period.** The Consultant agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Consultant shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
3. **Access to Records.** The Consultant agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
4. **Access to the Sites of Performance.** The Consultant agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

CIVIL RIGHTS LAWS AND REGULATIONS

The Civil Rights requirements flow down to all third-party consultants and their contracts at every tier.

The COUNTY is an Equal Opportunity Employer. As such, the COUNTY agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the COUNTY agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Consultant shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Consultant agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Consultant agrees to comply with applicable Federal implementing regulations and other implementing

requirements FTA may issue.

2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e *et seq.*, and Federal transit laws at 49 U.S.C. § 5332, the Consultant agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Consultant agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.
3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Consultant agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 § 12101 *et seq.*, which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Consultant agrees that it will not discriminate against individuals on the basis of disability. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 C.F.R. part 26

The DBE contracting requirements flow down to all third-party contractors and their subcontracts at every tier. It is the recipient's and prime consultant's responsibility to ensure the DBE requirements are applied across the board to all subrecipients/consultants/subconsultants. Should a subconsultant fail to comply with the DBE regulations, FTA would look to the recipient to make sure it intervenes to monitor compliance. The onus for compliance is on the recipient.

The following contract clause is required in all DOT-assisted prime and subcontracts: The consultant, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The consultant shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the consultant from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Consultants who subcontract a portion of their work, shall pay their subcontractors for satisfactory performance of their contracts no later than 30 calendar days from receipt of each payment made to them. Any delay or postponement of payment among the parties may take place only for good cause with prior written approval from the County. The Consultant shall utilize the specific DBEs listed unless the Consultant obtains the County's written consent. Unless the County's consent is provided, the Consultant shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

Overview

It is the policy of the COUNTY and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts. It is also the policy of the COUNTY to:

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE's;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This Contract is subject to 49 C.F.R. part 26. Therefore, the Consultant must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. The COUNTY shall make all determinations with regard to whether or not a Proposer is in compliance with the requirements stated herein. In assessing compliance, the COUNTY may consider during its review of the Proposer's submission package, the Proposer's documented history of non-compliance with DBE requirements on previous contracts with the COUNTY.

The Consultant, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the COUNTY deems appropriate.

For the purpose of this Contract, the COUNTY will accept only DBE's who are:

1. Certified, at the time of bid opening or proposal evaluation, by the Georgia Department of Transportation (GDOT) Georgia Unified Certification Program (GUCP).

DBE Participation Goal

The DBE participation goal for this Contract is set at **7%**. This goal represents those elements of work under this Contract performed by qualified Disadvantaged Business Enterprises for amounts totaling **not less than 7%** of the total Contract price.

Submission

Each Proposer shall supply the following information:

1. A list of those qualified DBE's with whom the Proposer intends to contract for the performance of portions of the work under the Contract, the agreed price to be paid to each DBE for work, the Contract items or parts to be performed by each DBE, a proposed timetable for the performance or delivery of the Contract item, and other information as required by the **DBE Participation Schedule** (attached). No work shall be included in the Schedule that the Proposer has reason to believe the listed DBE will subcontract, at any tier, to other than another DBE. The Proposer may not deviate from the DBE Participation Schedule submitted. Any subsequent changes and/or substitutions of DBE firms will require review and written approval by the COUNTY.
2. An original **DBE Letter of Intent** (attached) from each DBE listed in the **DBE Participation Schedule**.

Good Faith Efforts

If the Proposer is unable to meet the goal set forth above (DBE Participation Goal), the COUNTY will consider the Proposer's documented good faith efforts to meet the goal in determining responsiveness. The types of actions that the COUNTY will consider as part of the Proposer's good faith efforts include, but are not limited to, the following:

1. Documented communication with the COUNTY's DBE Coordinator (questions of IFB or RFP requirements, subcontracting opportunities, appropriate certification, will be addressed in a timely fashion);
2. The Proposer's own solicitations to obtain DBE involvement in general circulation media, trade association publication, minority-focus media and other reasonable and available means within sufficient time to allow DBE's to respond to the solicitation;
3. Written notification to DBE's encouraging participation in the proposed Contract; and
4. Efforts made to identify specific portions of the work that might be performed by DBE's.

The Proposer shall provide the following details, at a minimum, of the specific efforts it made to negotiate in good faith with DBE's for elements of the Contract:

1. The names, addresses, and telephone numbers of DBE's that were contacted;
2. A description of the information provided to targeted DBE's regarding the specifications and bid proposals for portions of the work;
3. Efforts made to assist DBE's contacted in obtaining bonding or insurance as required by the County and/or the FTA.

Further, the documentation of good faith efforts must include copies of each DBE and non-DBE subconsultant quote submitted when a non-DBE subconsultant was selected over a DBE for work on the contract. 49 C.F.R. § 26.53(b) (2) (VI). In determining whether a Proposer has made good faith efforts, the County and/or the FTA may take into account the performance of other Proposers in meeting the Contract goals. For example, if the apparent successful Proposer failed to meet the goal, but meets or exceeds the average DBE participation obtained by other Proposers, the Authority may view this as evidence of the Proposer having made good faith efforts.

Administrative Reconsideration

Within five (5) business days of being informed by the COUNTY that it is not responsive or responsible because it has not documented sufficient good faith efforts, the Proposer may request administrative reconsideration. The Proposer should make this request in writing to the COUNTY's DBE Coordinator. The DBE Coordinator will forward the Proposer's request to a reconsideration official who will not have played any role in the original determination whether or not the **Proposer documented sufficient good faith efforts.**

As part of this reconsideration, the Proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Proposer will have the opportunity to meet in person with the assigned reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The COUNTY will send the Proposer a written decision on its

reconsideration, explaining the basis for finding that the Proposer did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Termination of DBE Subconsultant

The Consultant shall not terminate the DBE subconsultant(s) listed in the **DBE Participation Schedule** (see below) without the COUNTY's prior written consent. The COUNTY may provide such written consent only if the Consultant has good cause to terminate the DBE firm. Before transmitting a request to terminate, the Consultant shall give notice in writing to the DBE subconsultant of its intent to terminate and the reason for the request. The Consultant shall give the DBE five days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subconsultant is terminated or fails to complete its work on the Contract for any reason, the Consultant shall make good faith efforts to find another DBE subconsultant to substitute for the original DBE and immediately notify the COUNTY in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement. Failure to comply with these requirements will be in accordance with the following:

Sanctions for Violations

If at any time the COUNTY has reason to believe that the Consultant is in violation of its obligations under this Agreement or has otherwise failed to comply with terms of this Section, the COUNTY may, in addition to pursuing any other available legal remedy, commence proceedings, which may include but are not limited to, the following:

1. Suspension of any payment or part due the Consultant until such time as the issues concerning the Consultant's compliance are resolved; and
2. Termination or cancellation of the Contract, in whole or in part, unless the successful Consultant is able to demonstrate within a reasonable time that it is in compliance with the DBE terms stated herein.

Continued Compliance

The COUNTY shall monitor the Consultant's DBE compliance during the life of the Contract. In the event this procurement exceeds ninety (90) days, **it will be the responsibility of the Consultant to submit quarterly written reports to the COUNTY that** summarize the total DBE value for this Contract. These reports shall provide the following details:

1. DBE utilization established for the Contract;
2. Total value of expenditures with DBE firms for the quarter;
3. The value of expenditures with each DBE firm for the quarter by race and gender;
4. Total value of expenditures with DBE firms from inception of the Contract; and
5. The value of expenditures with each DBE firm from the inception of the Contract by race and gender.

Reports and other correspondence must be submitted to the DBE Coordinator with copies provided to the Project Manager and Contract Administrator. Reports shall continue to be submitted quarterly until final payment is issued or until DBE participation is completed.

The Consultant shall permit:

1. The COUNTY to have access to necessary records to examine information as the COUNTY deems appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records of expenditures, invoices, and contract between the Consultant and other DBE parties entered into during the life of the Contract.
2. The authorized representative(s) of the COUNTY, the U.S. Department of Transportation, the Comptroller General of the United States, to inspect and audit all data and record of the Consultant relating to its performance under the Disadvantaged Business Enterprise Participation provision of this Contract.
3. All data/record(s) pertaining to DBE shall be maintained as stated in the Access to Records and Reports section of these Special Notification requirements.

LETTER OF INTENT

Disadvantage Business Enterprise

(This page shall be submitted for each DBE firm)

Proposer

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

DBE Firm:

DBE Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

DBE Contact Person:

Name: _____ Phone: (____) _____

DBE Certifying Agency:

_____ Expiration Date: _____

Each DBE Firm shall submit evidence (such as a photocopy) of their certification status.

Classification:

☐ Prime Contractor

☐ Subcontractor

☐ Joint Venture

☐ Manufacturer

☐ Supplier

Work item(s) to be performed by DBE	Description of Work Item	Quantity	Total
		TBD	TBD

The Proposer is committed to utilizing the above-named DBE firm for the work described above. The estimated participation is as follows:

DBE contract amount: \$ _____ TBD _____ Percent of total contract: _____ TBD _____ %

AFFIRMATION:

The above-named DBE firm affirms that it will perform that portion of the contract for the estimated dollar value as stated herein above.

By: _____
(Signature) (Title)

* In the event the Proposer does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

DBE PARTICIPATION SCHEDULE

The Proposer shall complete the following information for all DBE's participating in the contract that comprises the DBE Utilization percent stated in the DBE Utilization Form. The Proposer shall also furnish the name and telephone number of the appropriate contact person should the Authority have any questions in relation to the information furnished herein.

PROPOSER'S COMPANY NAME:	
Contract No. TBD Cobb County No.: X2706	PROJECT NAME Powder Springs Road Trail
LET DATE: TBD	TOTAL BID: TBD
THE DBE GOAL ON THIS CONTRACT IS: 7.00%	
I PROPOSE TO UTILIZE THE FOLLOWING DBE CONTRACTORS:	

Name and Address	Contact Name and Telephone Number	Participation Percent	Description of Work	Race and Gender of Firm
		TBD		
		TBD		
		TBD		

ENERGY CONSERVATION

42 U.S.C. 6321 *et seq.*
49 C.F.R. part 622, subpart C

The Energy Policy and Conservation requirements are applicable to all contracts. The Recipient agrees to, and assures that its subrecipients, if any, will comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6201 *et seq.*, and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance as required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

These requirements extend to all third-party consultants and their contracts at every tier and subrecipients and their subcontracts at every tier.

The consultant agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

49 U.S.C. § 5323(l) (1)
31 U.S.C. §§ 3801-3812
18 U.S.C. § 1001
49 C.F.R. part 31

The Program Fraud clause extends to all third-party contracts and their contracts at every tier and subrecipients and their subcontracts at every tier. These requirements flow down to consultants and subconsultants who make, present, or submit covered claims and statements.

The Consultant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consultant to the extent the Federal Government deems appropriate.

The Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Consultant, to

the extent the Federal Government deems appropriate.

The Consultant agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subconsultant who will be subject to the provisions.

RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION

Disputes – Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of County's Transportation Division Manager. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Consultant mails or otherwise furnishes a written appeal to the Transportation Division Manager. In connection with any such appeal, the Consultant shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Transportation Division Manager shall be binding upon the Consultant and the Consultant shall abide by the decision.

Performance During Dispute – Unless otherwise directed by County, Consultant shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Remedies – Unless this contract provides otherwise all claims, counterclaims, disputes and other matters in question between the County and the Consultant arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the County is located.

Rights and Remedies – The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the County, Engineer, or Consultant shall constitute a waiver of any right or duty afforded any of them under Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

TERMINATION

2 C.F.R. § 200.339

2 C.F.R. part 200, Appendix II (B)

Termination for Convenience or Default (Architect and Engineering)

The COUNTY may terminate this contract in whole or in part, for the COUNTY's convenience or because of the failure of the Consultant to fulfill the contract obligations. The COUNTY shall

terminate by delivering to the Consultant a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Consultant shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the COUNTY's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. COUNTY has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the COUNTY, the COUNTY's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Consultant to fulfill the contract obligations, the COUNTY may complete the work by contract or otherwise and the Consultant shall be liable for any additional cost incurred by the COUNTY.

If, after termination for failure to fulfill contract obligations, it is determined that the Consultant was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of COUNTY.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

42 U.S.C. §§ 7401 – 7671q
33 U.S.C. §§ 1251-1387
2 C.F.R. part 200, Appendix II (G)

The Clean Air Act and Federal Water Pollution Control Act requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

The Consultant agrees:

- 1) It will not use any violating facilities;
- 2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;”
- 3) It will report violations of use of prohibited facilities to FTA; and
- 4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

2 C.F.R. part 180

2 C.F.R. part 1200

2 C.F.R. § 200.213

2 C.F.R. part 200 Appendix II (I) Executive Order 12549

Executive Order 12689

The Consultant shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Consultant shall verify that its principals, affiliates, and subconsultants are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

1. Debarred from participation in any federally assisted Award;
2. Suspended from participation in any federally assisted Award;
3. Proposed for debarment from participation in any federally assisted Award;
4. Declared ineligible to participate in any federally assisted Award;
5. Voluntarily excluded from participation in any federally assisted Award; or
6. Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the Proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the COUNTY. If it is later determined by the COUNTY that the Proposer knowingly rendered an erroneous certification, in addition to remedies available to the COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The Proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

_____ Signature of Consultant's Authorized Official

_____ Name and Title of Consultant's Authorized Official

_____ Date

LOBBYING RESTRICTIONS

31 U.S.C. § 1352

2 C.F.R. § 200.450

2 C.F.R. part 200 appendix II (J) 49 C.F.R. part 20

The lobbying requirements mandate the maximum flow down pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5).

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

_____ Signature of Consultant's Authorized Official

_____ Name and Title of Consultant's Authorized Official

_____ Date