



## REQUEST FOR PROPOSALS

### Atlanta Regional Landuse Modeling and Conformity Forecasting

The Atlanta Regional Commission (ARC) is seeking proposals from firms or a team of firms to update ARC's landuse model integrated with regional activity-based travel demand forecasting model (ABM) and improve conformity forecasting methodology to prepare for the next Atlanta Region's Plan update. The Scope of Services for the work is attached in Exhibit A and provides information regarding the level of effort required, as well as specific tasks to be accomplished. The Consultant will be responsible for completing the model improvements and calibration, developing conformity forecast model/module, and modeling planning scenarios with the purpose of applying and testing the model. The Consultant will also assist ARC to analyze scenario modeling results and train ARC staff.

Available funds for the project will be approximately \$175,000. Any contract award for this study is contingent upon ARC receiving adequate funding for this purpose from federal, state and local agencies participating in this project. ARC expects to award this contract in the fourth quarter 2021 for one year with the option to renew on additional year, depending on the available of funding. Successful firms or team of firms should be prepared to begin work immediately upon contract execution. ARC reserves the right to award all or part of the available funds for this project.

Firms or teams of firms must respond to this RFP with hardcopy and electronic proposals in either MS Word compatible format or a PDF file. Proposal evaluation will focus initially on the written proposals. Should it be determined that interviews are required, a 'short list' of firms will be selected from the proposals received. If interviews are necessary, the short listed firms will be invited to participate in an interview process with an evaluation committee. ARC will confirm a specific interview date and time with those short listed firms. ARC reserves the right to award this contract based on initial proposals received without formal interviews and to award all or part of this project to one or more firms.

Interested firms should submit a proposal that addresses the requirements listed below and the Scope of Services in Exhibit A. Consultant(s) should provide a detailed breakdown of the proposed budget and task breakdown following the general formats provided in Exhibit B and B-1.

Proposals must include the following to be considered responsive:

1. The name of the lead firm and any sub-consultants including the point of contact at the lead firm (name, title, phone number and e-mail address).
2. Point of contact (name, title, phone number, mailing address, and email address) at lead firm.



3. Qualifications and technical competence of consultant/ or sub-consultants in the type of work related.
4. Description of experience on similar projects including at least three references within the past five years, with current contact information.
5. Identification of personnel who would work on the project and their qualifications.
6. Geographic location of the consultant's office performing the work.
7. A detailed description of the technical approach proposed for accomplishment of the work.
8. A proposed schedule and work plan for the accomplishment of the work described in Exhibit A.
9. Current workload and availability of such personnel in all required fields of expertise.
10. A proposed project budget in the format at Exhibits B and B-1.
11. A DBE Utilization Plan in the format of Exhibit C.
12. Completed forms in Exhibit D:
  - a) Contractor/Vendor Information Form
  - b) Lower Tier Covered Transactions and Lobbying
  - c) Georgia Security and Immigration Compliance Act- Contractor Affidavit
13. Any other pertinent information.

The review of written proposals will be based on the following evaluation criteria, with relative weights in parentheses:

1. Related experience, strength of qualifications, versatility in subject matter expertise, and references of the firm or project team (50%)
2. Technical approach (30%)
3. Work plan and schedule (10%)  
Note: this includes consultant's ability to demonstrate a balanced workload for its staff to carry out its responsibilities to ARC in balance with any other contracts Consultant may have.
4. Proposed project budget. (10%)

It is the policy of ARC that Disadvantaged Business Enterprises (DBEs) (49 CFR Part 26) have the maximum opportunity to participate, either as contractors or as subcontractors, in the performance of Commission contracts to the extent practical and consistent with the efficient performance of the contract. ARC's DBE goal is 17.61%. Information regarding ARC's DBE Program can be found at <https://atlantaregional.org/about-arc/business-services-finance/arc-business-opportunities/>

Additional information should not be required to respond to the RFP. However, technical questions should be submitted in writing to Wei Wang no later than 4:00pm Tuesday, September 28th. Written questions should be emailed to the address provided above or submitted by email



to [wwang@atlantaregional.org](mailto:wwang@atlantaregional.org). All questions received, and responses to those questions, will be posted to ARC's website no later than 5:00pm on Tuesday, October 5, 2021.

Firms must respond to this RFP with written proposals as well as electronic copies of their proposals in PDF format. Firms must email an electronic copy to Wei Wang at [wwang@atlantaregional.org](mailto:wwang@atlantaregional.org). ARC must also receive a hard copy via the address below. Please email confirmation and tracking number of the proposal to [wwang@atlantaregional.org](mailto:wwang@atlantaregional.org)

ARC must receive one (1) hard copy and one (1) electronic copy in digital format, either in MS Word or PDF format, not later than **4:00pm on Wednesday, October 20, 2021.**

Proposals shall not exceed a total of 20 single-sided pages (8.5" x 11") or 10 double sided pages, inclusive of resumes and firm experience. Cover, end sheets, budget exhibits, DBE documentation, and introductory letter shall not count against this maximum. Font size shall be a minimum of 12 point in all cases.

Proposals must be submitted to the following address:

Atlanta Regional Commission  
ATTN: Wei Wang  
International Tower  
229 Peachtree Street NE, Suite 100  
Atlanta, Georgia 30303-2538

If interviews are necessary, the short-listed firms will be invited to participate in an interview process with the evaluation committee to be held during the week of November 1st 2021 (tentative). ARC reserves the right to award this contract based on initial proposals received without formal interviews and to award all or part of this project to one or more firms.

## **CONFIDENTIALITY AND CONFLICT OF INTEREST**

ARC is subject to the Georgia Open Records law. All proposals submitted will become public records to be provided upon request. Any information containing trade secrets or proprietary information, as defined by state law, must be marked as confidential to prevent disclosure. Confidential markings must be limited to the protected information. Entire proposals marked confidential will not be honored. Additionally, conflicts of interest are governed by the ARC Standards of Ethical Conduct available here on ARC's website. Respondents must disclose any potential conflicts of interest that may arise from the provision of services described herein. Such disclosure should include the name of individual(s) with whom there is a conflict, any relevant facts to the potential conflict, and a description of the internal controls proposed to mitigate any such conflict. ARC's Staff Legal Counsel will determine whether such disclosure presents a potential organizational conflict of interest that should preclude award to the respondent.



## EXHIBIT A

### Scope of Services

#### I. **General:**

The work to be accomplished by the consultant is in support of the following ARC work program component:

Cost Center – 006ELM Land Use Model Development

#### II. **Purpose:**

The Atlanta Regional Commission’s (ARC) current landuse model, PECAS (“Production Exchange Consumption Allocation System”), is a spatial economic model for the 20-County Atlanta Region. Its main purpose is to simulate the future location of activities (industries, households, and government), and the development of space by developers, for both small area socioeconomic forecasting and policy analysis. The forecasting products include the employment, population, and households by traffic analysis zones (TAZs) for the Atlanta region. PECAS generates the forecasting data for ARC’s activity-based travel demand forecasting model (ABM). ARC’s PECAS and TAZD (TAZ Disaggregator, ArcGIS based landuse model) were used to develop the adopted S16 regional air quality conformity forecasts in 2019. Currently, ARC is in the process of improving forecasting methodology, expanding model application, and processing 2020 Census data to prepare for the next major plan update. The purpose of this contract is to develop the next generation conformity forecasting model/module and methodology to prepare for The Atlanta Region’s Plan update as well as update and improve ARC’s current landuse model and related base data.

#### III. **Modeling and Forecasting Area:**

The Consultant shall perform all the necessary service for twenty-one Counties Atlanta Region including: Barrow, Bartow, Clayton, Cherokee, Cobb, DeKalb, Dawson, Douglas, Fayette, Fulton, Gwinnett, Henry, Rockdale, Carroll, Coweta, Forsyth, Hall, Newton, Paulding, Spalding, and Walton.

#### IV. **Work and Services:**

This section contains the scope of service. The Consultant shall do, perform and carry out, in a satisfactory and proper manner, as determined by the Atlanta Regional Commission (ARC), the following work and services.

#### **Task 1: ARC landuse model improvements and updates**

The consultant will work with ARC staff to process 2020 census and local government data to update the base data for PECAS model and complete the functional improvements and



calibration. The consultant will also work with ARC forecasting team to process the current parcel data, zoning data, and ARC's regional policy data (UGPM) to improve the model performance and prepare for the air quality conformity forecasting scenarios. The landuse model will be updated to 2020 as base year and migrated to the new 2020 ARC TAZs if applicable.

The product of this task is the improved PECAS model integrated with ARC ABM.

### **Task 2: Conformity forecasting model/module and Draft S17 forecast development**

The consultant will work with ARC staff to improve small area conformity forecasting methodology and develop the next generation conformity forecasting model/module ideally within ARC's current landuse model framework. The consultant will also work with ARC forecasting team to develop the S17 draft conformity forecasts. This is the major task in this contract.

The product of this task is either a standalone forecasting model or an improved module within current ARC landuse model framework with the function of generating small area conformity forecasts. The S17 draft conformity forecast will be generated in this process using the forecasting model/module as a base for the planning project analysis and the official S17 forecasts in the next forecasting support contract.

### **Task 3: Modeling application and scenario development**

The consultant will work with ARC forecasting team to develop expand the modeling application by developing minimum two major future growth scenarios that are aligned with ARC regional policies to support planning priorities.

The products of this task are updated input data for PECAS including parcels and zoning data, and two PECAS planning scenarios with modeling result analysis and documentation. This also includes output data in a GIS format for map development in presentations to external audiences.

### **Task 4: Documentation and staff training**

The consultant will complete the documentation with the details about model development and modeling result analysis. The consultant will also provide training to ARC staff about running conformity forecasting model/module, setting up scenarios, model adjustment and modeling result analysis.

The products of this task are ARC forecasting model training and summary documentation.



**EXHIBIT B  
Proposed Project Budget**

<u>1. Direct Labor</u>	<u>Estimated Hours</u>	<u>Rate/Hour</u>	<u>Total Est.</u>	<u>Cost</u>
(List by position all professional personnel participating in project)				
<b>Total Direct Labor</b>				\$ _____
2. <u>Overhead Cost</u> (OMB circulators A-87 and A-122) (Overhead percentage rate) X (Total Direct Labor)				
<b>Total Overhead</b>				\$ _____
3. <u>Other Direct Costs</u> (List other items and basis for computing cost for each. Examples include computer services, equipment, etc.)				
<b>Total Other Direct Costs</b>				\$ _____
4. <u>Subcontracts</u> (For each, list identity, purpose and rate)				
<b>Total Subcontracts</b>				\$ _____
5. <u>Travel</u>				
a. Travel by common carrier from/to the ARC offices. (List number of trips and economy class airfare, plus taxi and shuttle fares, etc.)				
b. Travel by private automobile within ARC area. (List # of days x rate)				
<b>Total Travel</b>				\$ _____
6. <u>Profit</u> (Percentage rate X basis)				
<b>Total Profit</b>				\$ _____
<b>Total Estimated Cost and Profit</b>				\$ _____



**EXHIBIT B-1**

**Proposed Project Budget – By Task**

Task # 1	ARC landuse model improvements and updates	\$ _____
Task # 2	Conformity forecasting model/module development and Draft S17 forecast	\$ _____
Task # 3	Modeling application and scenario development	\$ _____
Task # 4	Documentation and staff training	\$ _____
Total Contract Cost		\$ _____



## EXHIBIT C

### Title VI and DBE Requirements For Prime Contractors and Sub-grant Recipients

#### TITLE VI

ARC, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000D to 2000D4, 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 Respondents that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises shall be afforded full opportunity to submit proposals in response to this invitation and shall not be discriminated against on the grounds of race, color, sex, handicap, or national origin in consideration for an award.

#### DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

**Overall DBE Goal:** As part of its DBE Plan, ARC has an established overall goal of 17.61 percent.

**Program Intent.** ARC has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26 ("Part 26" or "DBE Regulations"). ARC has received federal financial assistance from the Department of Transportation for this contract opportunity, and as a condition of receiving this assistance, ARC has signed an assurance that it will comply with Part 26.

It is the policy of ARC to ensure that DBEs, as defined in Part 26, have an equal opportunity to participate in its DOT-assisted contracting opportunities. It is also ARC's policy:

- (a) To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- (b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- (c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- (e) To help remove barriers to the participation of DBEs in DOT-assisted contracts; and



- (f) To assist the development of firms that can compete successfully in the marketplace outside the DBE program.

**Definitions.** Disadvantaged Business Enterprise (DBE) as used in this Contract shall have the same meaning as defined in 49 CFR Part 26. A DBE is a firm in which one or more individuals who are women or eligible minorities own and control at least 51% of the firm.

**Compliance.** All Bidders/Proposers, potential contractors, or subcontractors for this Contract are hereby notified that failure to carry out the policy and the DBE obligations, as set forth above, shall constitute a breach of Contract which may result in termination of the Contract or such other remedy as deemed appropriate by ARC.

**Prompt Payment Requirement.** In the event of contract award, the prime contractor agrees to pay each subcontractor under the prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from ARC. The prime contractor agrees further to return retainage payments to each subcontractor within 10 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of ARC. This clause applies to both DBE and non-DBE subcontracts.

Any contractor found not to be in compliance with this clause will be considered in breach of contract and any further payments will be withheld until corrective action is taken. If contractor does not take corrective action, contractor may be subject to contract termination.

**Substitution.** The Bidder shall make a good faith effort to replace a DBE Subcontractor that is unable to perform successfully with another DBE Subcontractor. Substitution must be coordinated and approved by ARC.

**Documentation.** The Bidder/Proposer shall establish and maintain records and submit regular reports, as required, which will identify and assess progress in achieving DBE subcontract levels and other DBE affirmative action efforts.

Additional information on ARC's Disadvantaged Business Enterprise Program can be obtained from Brittany Zwald, Contract & Grants Officer, Financial Services Division, Atlanta Regional Commission, 229 Peachtree Street NE, Suite 100, Atlanta, Georgia 30303, 470-378-1494, [bzwald@atlantaregional.org](mailto:bzwald@atlantaregional.org).



**DBE UTILIZATION PLAN**

This plan will be included in a Title VI and DBE Attachment to all USDOT funded ARC bid and proposals.

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

NAICS Code: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

-----  
-----  
-----

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$\_\_\_\_\_. The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as state above.

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

**If the bidder/offeror does not receive award of the prime contract, any and all representations in this DBE Utilization Plan shall be null and void.**

**(submit this page for each DBE subcontractor).**

**PLEASE ATTACH A COPY OF THE OFFICAL DBE CERTIFICATION FORM**



Atlanta Regional Commission

**EXHIBIT D**

**CONTRACT FORMS**

**[atlantaregional.org](http://atlantaregional.org)**

International Tower  
229 Peachtree St, NE | Suite 100  
Atlanta, Georgia 30303

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY  
AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS AND LOBBYING**

**1. DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION- LOWER TIER COVERED  
TRANSACTIONS**

The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 49 CFR Part 29, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

The terms "covered transaction", "debarred", "suspended", "ineligible", "lower-tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause have the meaning set forth in the Definitions and Coverage sections of rules implementing Executive Order 12549.

The prospective lower tier participant certifies that, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Where the prospective lower tier participant is unable to certify to any of its statements in this certification, such prospective participant shall attach an explanation to this proposal.

---

**2. LOBBYING**

As required by **Section 1352, Title 31 of the U.S. Code** (as implemented at 49 CFR Part 20), the applicant certifies that 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 subawards at all tiers (including subcontracts, subgrants, 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.

**Statement for Loan Guarantees and Loan Insurance**

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

If any funds have been paid or will be paid to any persons 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 commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement 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 statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above applicable certification(s).

\_\_\_\_\_  
NAME OF APPLICANT

\_\_\_\_\_  
AWARD NUMBER and/or PROJECT NAME

\_\_\_\_\_  
PRINTED NAME OF AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
TITLE OF AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE

GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

CONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned person or entity verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or entity which is contracting with the Atlanta Regional Commission has registered with, is authorized to participate in, and is participating in the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

The undersigned person or entity further agrees that it will continue to use the federal work authorization program throughout the contract period, and it will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the undersigned with the information required by O.C.G.A. § 13-10-91(b).

The undersigned person or entity further agrees to maintain records of such compliance and provide a copy of each such verification to the Atlanta Regional Commission within five (5) business days after any subcontractor is retained to perform such service.

\_\_\_\_\_  
E-Verify User Identification Number

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
BY: Authorized Officer or Agent

\_\_\_\_\_  
Title of Authorized Officer or Agent of Contractor

\_\_\_\_\_  
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE

\_\_\_\_ DAY OF \_\_\_\_\_, 201\_\_

\_\_\_\_\_  
[NOTARY SEAL]

Notary Public

My Commission Expires: \_\_\_\_\_

CONTRACTOR/VENDOR INFORMATION

Legal name & address of  
entity with which  
ARC is to contract: \_\_\_\_\_  
\_\_\_\_\_

*If different from above-*  
Legal name of Payee: \_\_\_\_\_  
Payment Address: \_\_\_\_\_  
\_\_\_\_\_

(If additional addresses are needed, identify each and its purpose on the reverse of this page).

Legal entity status (please mark all that apply):  
 Corporation  Partnership  Individual  Sole Proprietor  
 501C3  501C4  Other Non-profit (describe) \_\_\_\_\_  
 State Government  County/Local Government  
Other(describe): \_\_\_\_\_

(Federal) Employer Identification Number: \_\_\_\_\_  
OR  
Social Security Number (for an individual): \_\_\_\_\_

Is this contractor/vendor an attorney/law firm? YES NO

Is this contractor/vendor debarred, suspended, ineligible or excluded from participation in federally funded projects? YES NO

Is this contractor/vendor a:  
Disadvantaged Business Enterprise under 49 CFR Part 26? YES NO  
Minority      or Women     

If YES, attach a copy of current certification(s).

Is this contractor/vendor a Non-federal entity that expends \$500,000 or more in a year in Federal awards?  
YES NO

If so, attach a copy of most recent single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133.

Certified true and correct:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_



Atlanta Regional Commission

**EXHIBIT D**

**CONTRACT BOILERPLATE**

**[atlantaregional.org](http://atlantaregional.org)**

International Tower  
229 Peachtree St, NE | Suite 100  
Atlanta, Georgia 30303

## CONSULTANT AGREEMENT

THIS AGREEMENT, entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between XXXX of XXX, XXXX (hereinafter referred to as the "Consultant") and the ATLANTA REGIONAL COMMISSION (hereinafter referred to as "ARC").

### WITNESSETH THAT:

WHEREAS, ARC desires to engage the Consultant to render certain services hereinafter described in connection with an undertaking or project (hereinafter referred to as the "Project") which is to be wholly or partially financed by a grant from the United States Department of Transportation, (hereinafter, along with the appropriate auditing agency of the entities making such grant, referred to as "the Concerned Funding Agencies");

WHEREAS, the Consultant desires to render such services in connection with the project;

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

1. Engagement of the Consultant. ARC hereby agrees to engage the Consultant and the Consultant hereby agrees to perform the services hereinafter set forth in accordance with the terms and conditions herein.
2. Scope of Services. The Consultant shall do, perform and carry out in a satisfactory and proper manner, as determined by ARC, the work and services described in Attachment "A" which is attached hereto and made a part hereof.
3. Time of Performance. The services of the Consultant are to commence immediately upon execution of this agreement. Work and services shall be undertaken and pursued in such sequence as to assure their expeditious completion and as may be required in Attachment "A." All work and services required hereunder shall be completed on or before XXXX.
4. Compensation. The Consultant shall be compensated for the work and services to be performed under this agreement as set forth in Attachment "B" which is attached hereto and made part hereof. Compensation for work and services in the performance of this contract shall not exceed \$XXX.
5. Approval of Subcontracts. None of the work or services to be performed under this agreement by the Consultant shall be subcontracted without the prior written approval of ARC's Executive Director or his authorized agent. If such approval is requested, all subcontract documents shall be submitted to ARC's Executive Director or his authorized agent, for his review and approval prior to the execution of such subcontract. Further, if requested by ARC's Executive Director or his authorized agent, the Consultant shall provide ARC with such documentation as ARC's Executive Director shall require, regarding the

method the Consultant used in selecting its subcontractor. The Consultant acknowledges that if work or services to be performed under this agreement is financed solely or partially with federal funds, the selection of subcontractors is governed by regulations requiring competition between potential subcontractors or adequate justification for sole source selection. The Consultant agrees to abide by such regulations in its selection procedure.

6. Prompt Payment and Retainage. The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from ARC. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of ARC. This clause applies to both DBE and non-DBE subcontracts.

Any contractor found not to be in compliance with this clause will be considered in breach of contract and any further payments will be withheld until corrective action is taken. If contractor does not take corrective action, contractor may be subject to contract termination.

7. Assignability. The Consultant shall not assign, sublet or transfer all or any portion of its interest in this agreement without the prior written approval of ARC.
8. Amendments. ARC may require changes in this agreement. Except for termination for cause or convenience, such changes, including any increase or decrease in the amount of the Consultant's compensation shall be incorporated in written amendments to this agreement. Amendments to this agreement may be executed on behalf of ARC only by ARC's Executive Director and Chairman.
9. Insurance. The Consultant will have and maintain insurance coverage that complies with the laws of the state of Georgia, as well as reasonable and prudent business practices. Such insurance shall at least include Worker's Compensation, Public Liability, Property Damage, and Valuable Papers coverage.
10. Indemnification. The Consultant shall hold harmless and indemnify ARC, its officers, directors, and employees from and against losses, reasonable attorney's fees and costs, that may be based on any injury to persons or property caused by the negligent performance of services under this agreement by the consultant or any person employed by the consultant.
11. Formal Communication. Formal communications regarding this agreement shall include, but not necessarily be limited to correspondence, progress reports and fiscal reports.

All formal communication regarding this agreement shall be in writing between the person executing this agreement on behalf of the Consultant (executor) and ARC's Executive Director. However, the Consultant executor and ARC's Executive Director shall each have the right to designate in writing to the other an agent to act in his or her behalf regarding this agreement. Any restrictions to such designation must be clearly defined in the written designation.

In this regard, ARC's Executive Director hereby designates the Director of the Center for Livable Communities as his agent for purposes of this contract only, except for Amendments and Terminations.

12. Reports. The Consultant shall furnish ARC with narrative progress reports, in such form and frequency as may be specified by ARC's Executive Director or his authorized agent, outlining the work accomplished by the Consultant during the period, including the current status of the Project, and the percentage of work which has been completed.
13. Financial Reports. In addition to other records required by this contract, the Consultant agrees to provide to ARC such additional financial reports in such form and frequency as ARC may require in order to meet ARC's requirements for reporting to the Concerned Funding Agencies.
14. Review and Coordination. To ensure adequate assessment of the Consultant's project and proper coordination among interested parties, ARC shall be kept fully informed concerning the progress of the work and services to be performed hereunder. The Consultant may be required to meet with designated representatives of ARC and the Concerned Funding Agencies from time to time to review the work and services performed. The Consultant shall be given reasonable written notice of such meetings.
15. Inspections. Authorized representatives of ARC and the Concerned Funding Agencies may at all reasonable times review and inspect the Project activities and data collected pursuant to this agreement. Except where specifically prohibited by law, all reports, studies, records, and computations prepared by or for the Consultant under this agreement shall be made available to authorized representatives of ARC and the Concerned Funding Agencies for inspection and review at all reasonable times in the Consultant's office where data is normally accumulated. Approval and acceptance of such material shall not relieve the Consultant of its professional obligation to correct, at its expense, any errors found in the work unless such errors can be shown to be caused by inaccurate or incomplete information provided by ARC.
16. Maintenance of Cost Records. The Consultant shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the Project and shall make such material available at all reasonable times during the period of the agreement, and for three years from the date of final payment under the agreement, for inspection by ARC, the Concerned Funding Agencies, and if the work and services to be performed under this agreement is wholly or partially funded with federal funds, the Comptroller General of the United States, or any of their duly authorized representatives. The Consultant shall include the provisions of this paragraph in any subcontract executed in connection with this Project.
17. No Obligation by the Federal Government. ARC and the 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 ARC, the 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. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

18. Status as Independent Consultants. Nothing contained in this agreement shall be construed to constitute the Consultant or any of its employees, servants, agents or subcontractors as a partner, employee, servant, or agent of ARC, nor shall either party to this agreement have any authority to bind the other in any respect, it being intended that each shall remain an independent Consultant.
19. Consultant's Personnel. The Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services under this agreement. Such personnel shall not be employees of ARC, nor shall such personnel have been employees of ARC during any time within the twelve-month period immediately prior to the date of this agreement, except with the express prior written consent of ARC. Further, the Consultant agrees that no such former ARC employees shall be involved in any way with the performance of this agreement, without the express prior written approval of ARC.
20. Employees' Rate of Compensation. The rate of compensation for work performed under this project by a staff member or employee of the Consultant shall not exceed the compensation of such person that is applicable to his or her other work activities for the Consultant. Charges for salaries and wages of individuals shall be supported by time and attendance and payroll distribution records.
21. Interest of Consultant. The Consultant covenants that neither the Consultant, nor anyone controlled by the Consultant, controlling the Consultant, or under common control with the Consultant, nor its agents, employees or Consultants, presently has an interest, nor shall acquire an interest, direct or indirect, which would conflict in any manner or degree with the performance of its service hereunder, or which would prevent, or tend to prevent, the satisfactory performance of the Consultant's service hereunder in an impartial and unbiased manner. The Consultant further covenants that in the performance of this agreement no person having any such interest shall be employed by the Consultant as an agent, Consultant or otherwise. If the Consultant contemplates taking some action which may constitute a violation of this paragraph, the Consultant shall request in writing the advice of ARC, and if ARC notifies the Consultant in writing that the Consultant's contemplated action will not constitute a violation hereof, then the Consultant shall be authorized to take such action without being in violation of this paragraph.
22. Interest of Members of ARC and Others. No officer, member or employee of ARC, and no public official of any local government which is affected in any way by the project, who exercises any function or responsibilities in the review or approval of the project or any component part thereof, shall participate in any decision relating to this agreement which

affects his or her personal interests or the interest of any corporation, partnership or association in which he or she is directly, or indirectly, interested; nor shall any such officer, member or employee of ARC, or public official of any local government affected by the project, have an interest, direct or indirect, in this agreement or the proceeds arising therefrom.

23. Officials Not to Benefit. No member of or delegate to the Congress of the United States of America, resident commissioner or employee of the United States Government, shall be admitted to any share or part of this agreement or to any benefits to arise herefrom.
24. Compliance with Requirements of the Concerned Funding Agencies. The Consultant shall be bound by the applicable terms and conditions of the Grant Contract between ARC and the Concerned Funding Agencies which said Grant Contract is on file in the offices of ARC and is hereby made a part of this agreement as fully as if the same were attached hereto. ARC will notify the Consultant in writing of any applicable changes within a reasonable time after ARC has received appropriate notice of such changes from the Concerned Funding Agencies.
25. Federal Changes. Consultant shall at all times comply with all applicable U.S. DOT regulations, policies, procedures and directives as they may be amended or promulgated from time to time during the term of this contract. Consultant's failure to so comply shall constitute a material breach of this contract.
26. Rights in Documents, Materials and Data Produced. For purposes of this agreement, "data" includes, but is not limited to, writings, sound recordings, computer programs, photographs, films, videotapes or other graphic representations and works of a similar nature. ARC and the Concerned Funding Agencies shall have the right to use same without restriction or limitation and without compensation to the Consultant other than as provided in this agreement. The Consultant acknowledges that matters regarding rights to inventions and materials generated by or arising out of this agreement may be subject to certain regulations issued by the Concerned Funding Agencies.
27. Data and Software Licensing. During performance of the work covered by this Agreement ARC may provide certain data or software products, such as aerial photography, roadway analytics/traffic data or commercially available planning data and software, to the Consultant that have been obtained from various sources under specific licensing agreements. The Consultant acknowledges that any data or software that ARC may provide hereunder is provided as a non-exclusive, non-transferable, limited license for the Consultant or its Sub-consultants to use the data or software for the work covered by this Agreement only. The Consultant shall not redistribute, republish or otherwise make this data or software available to any party not covered by this Agreement. The Consultant or any Sub-consultants shall not use this data or software for any work not covered by this Agreement. The Consultant further acknowledges that upon completion of the project covered by this Agreement all data and software provided by ARC will be returned to ARC and all copies of the data or software residing on the Consultant's or Sub-consultant's computer systems will be removed.

28. Publicity. Articles, papers, bulletins, reports or other material reporting the plans, progress, analysis or results and findings of the work conducted under this agreement shall not be presented or published without first submitting the same to ARC for review and comment. No such presentation shall be made until comments have been received from ARC regarding such review; provided, however, if such comments have not been received by the Consultant within thirty calendar days after such submission, it shall be presumed that ARC has no objection thereto. ARC's comments, objections, reservations or disagreements regarding such material shall be accommodated as ARC shall specify.
29. Assurances. The Consultant hereby assures and certifies that it will comply with the appropriate regulations, policies, guidelines and requirements (as applicable), including, but not limited to, 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 48 CFR 31, "Contract Cost Principles and Procedures," Executive Order 12372, "Intergovernmental review of Federal programs," U.S. Office of Management and Budget Circular Nos. A 21, "Cost Principles for Educational Institutions," and A 133, "Audits of States, Local Governments and Non-Profit Organizations," or other requirements imposed by ARC or the Concerned Funding Agencies concerning requirements of law or project matters as expressly made applicable by ARC herein, as they relate to the application, acceptance, use and audit of federal funds for this federally assisted project. Also, the Consultant gives assurance and certifies with respect to this agreement that:
- a. For all agreements:
- i. It possesses legal authority to apply for this agreement, and, if appropriate, to finance and construct any proposed facilities; and, any required resolution, motion or similar action has been duly adopted or passed as an official act of the Consultant's governing body; that proper authorization exists for the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the Consultant to act in connection with the application and to provide such additional information as may be required, and, upon ARC approval of its application, that the person identified as the official representative of the Consultant is authorized to execute an agreement incorporating the terms of its application.
  - ii. It understands that the phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect federal assistance.
  - iii. It will comply with Title VI of the Civil Right Act of 1964 (P.L. 88-352 and 42 USC 2000d) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of age, handicap, religion, creed or belief, political affiliation, sex, race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any project or activity for which the applicant receives federal financial assistance and will immediately take any measures

necessary to effectuate this assurance. The Consultant shall take affirmative action to ensure that qualified applicants are employed and qualified subcontractors are selected, and that qualified employees are treated during employment, without regard to their age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; selection for training including apprenticeship, and participation in recreational and educational activities.

The Consultant shall in all solicitations or advertisements for subcontractors or employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. The Consultant shall not discriminate against any qualified client or recipient of services provided through this agreement on the basis of age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. The Consultant shall cause foregoing provisions to be included in all subcontracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor.

The Consultant shall keep such records and submit such reports concerning the racial and ethnic origin of applicants for employment and employees as ARC or the Concerned Funding Agencies may require.

The Consultant agrees to comply with such rules, regulations or guidelines as ARC or the Concerned Funding Agencies may issue to implement the requirements of this paragraph.

- iv. It will comply with applicable requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of federal and federally assisted projects.
- v. It will comply with the applicable provisions of the Hatch Act which limits the political activity of employees.
- vi. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- vii. It will cooperate with ARC in assisting the Concerned Funding Agencies in this compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et set.) by (a) consulting, through ARC, with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic

Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying, through ARC, the Concerned Funding Agencies of the existence of any such properties, and by (b) complying with all requirements established by ARC or the Concerned Funding Agencies to avoid or mitigate adverse effects upon such properties.

- viii. For agreements not involving federal financial assistance for construction, it will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the Project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Concerned Funding Agencies, through ARC, of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by EPA.
- ix. It will comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in U.S. Department of Labor regulations (41 CFR Part 60).
- x. The Consultant agrees that throughout the performance of this contract it will remain in full compliance with all federal and state immigration laws, including but not limited to provisions 8 USC 1324a and O.C.G.A. § 13-10-91 regarding the unlawful employment of unauthorized aliens and verification of lawful presence in the United States. Thereunder, Consultant will ensure that only persons who are citizens or nationals of the United States or non-citizens authorized under federal immigration laws are employed to perform services under this contract or any subcontract hereunder.
- xi. 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.

The Consultant further agrees to include the provisions contained in the forgoing paragraph in each subcontract for services hereunder.

The Consultant shall not retaliate or take any adverse action against any employee or any subcontractor for reporting, or attempting to report a violation(s) regarding applicable immigration laws.

- b. For agreements involving either full or partial federal financial assistance for construction projects(s):
  - i. It will comply with the provisions of Executive Order 11296, relating to evaluation of flood hazards, and Executive Order 11288, relating to the prevention, control, and abatement of water pollution.
  - ii. It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by, the Physically Handicapped," Number A117 1-1961, as modified (41 CFR 101 - 17.703).

The Consultant will be responsible for conducting inspections to ensure compliance by the Consultant with these specifications.

- c. For agreements exceeding \$ 100,000.00 in federal financial assistance:
  - i. It will comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act [42 U.S.C. 1857 (h)], section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

30. Certifications.

- a. Prohibition Against Use of Funds to Influence Legislation (Lobbying). No part of any funds under this agreement shall be used to pay the salary or expenses of any Consultant, or agent acting for the Consultant, to engage in any activity designed to influence legislation or appropriations pending before the Congress as stated in 49 CFR 20.
- b. Debarment and Suspension. The Consultant agrees to comply with the nonprocurement debarment and suspension rules in 49 CFR 29.
- c. Drug-Free Workplace. The Consultant agrees and certifies that it will comply with the requirements for a Drug-Free Workplace, as described in Section 50-24-3 of the Official Code of Georgia, including passing through this requirement to lower tier Consultants.
- d. The Consultant agrees and hereby certifies that it will comply with the Georgia Security and Immigration Compliance requirements of O.C.G.A. § 13-10-91.

31. Other Requirements. In addition to other requirements of this agreement, the Consultant agrees to comply with, and shall be bound by, the applicable terms and conditions of all state and federal laws or regulations governing and defining resources, project administration, allowable costs and associated procurement standards, and the ARC Disadvantaged Business Enterprise Plan (in compliance with 49 CFR Part 26), as appropriate. In addition, the Consultant further agrees to comply with the DBE Utilization Plan submitted to ARC as part of its proposal. All such documents are hereby made part of this agreement fully as if the same were attached hereto.

The Consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this agreement. The Consultant shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT assisted agreements. Failure by the Consultant to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.

The Consultant agrees to pay each subcontractor under this prime agreement for satisfactory performance of its agreement no later than thirty business days from the receipt of each payment that said prime Consultant receives from ARC. The prime Consultant agrees

further to return retainage payments to each subcontractor within thirty business days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of ARC. This clause applies to both Disadvantaged Business Enterprises and non-Disadvantaged Business Enterprises.

32. Termination for Mutual Convenience. ARC or the Consultant may terminate this agreement in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall, through formal written amendment, agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The Consultant shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. ARC shall evaluate each noncancelable obligation to determine its eligibility for inclusion in project costs. Settlement will be made in accordance with the terms and conditions of this agreement. ARC shall allow full credit to the Consultant for the ARC share of the non-cancelable obligations, properly incurred by the Consultant prior to termination.
33. Termination for Convenience. ARC may terminate this agreement, in whole or in part, at any time by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. In that event, all information and material produced or collected under this agreement and/or used in the performance of the scope of services shall, at the option of ARC, become its property. If this agreement is terminated by ARC as provided in this paragraph, the Consultant will be reimbursed for the otherwise allowable actual expenses incurred by the Consultant up to and including the effective date of such termination, as authorized in Attachment "B." The Consultant shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. ARC shall evaluate each noncancelable obligation to determine its eligibility for inclusion in project costs.
34. Termination of the Agreement for Cause. If the Consultant, due to its action or failure to act, shall fail to fulfill in a timely and proper manner its obligations under this agreement, or if the Consultant has or shall violate any of the covenants, agreements, representations or stipulations of this agreement, ARC shall thereupon have the right to terminate this agreement by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all information and materials collected or produced under this agreement and/or used in the performance of the scope of services shall, at the option of ARC, become its property. The Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed under the Scope of Service up to and including the effective date of termination as authorized in Attachment "B." Notwithstanding the foregoing to the extent provided by law, the Consultant shall not be relieved of liability to ARC for damages sustained by ARC by virtue of any breach of this agreement by the Consultant and ARC may withhold any payments to the Consultant for the purpose of set-

off for damages caused by the Consultant's breach, until such time as the exact amount of damages to ARC from the Consultant is determined.

35. Termination Due to Non-Availability of Funds. Notwithstanding any other provision of this agreement, in the event that any of the funds for carrying out the functions to which this agreement relates do not become available, then, upon written notice to the Consultant, this agreement may be immediately terminated without further obligation of ARC.
36. Suspension Due to Non-Availability of Funds. The Concerned Funding Agencies have the right to suspend financial assistance for this project. Consequently, ARC reserves the same right regarding this agreement. Such suspension would cause the withholding of further payments and/or prohibiting the Consultant from incurring additional obligations during the suspension period. However, unless notified in writing to the contrary, such suspension would not invalidate obligations otherwise properly incurred by the Consultant prior to the date of suspension to the extent that they are noncancelable.
37. Disputes and Appeals. Any dispute concerning a question of fact arising either from a Consultant or subgrant selection decision, or under a Consultant or subgrant contract, once executed, shall be decided by the cognizant Center Director who, after advisory consultation with all appropriate ARC officials (e.g., Director of Business Services, General Counsel, etc.), shall promptly reduce such decision concerning the question of fact to writing and mail, or otherwise furnish a copy thereof, to the disputing party (i.e., as appropriate, either: the unsuccessful proposer; or the Consultant or subgrantee). The Center Director shall concurrently fully advise the disputing party, in writing, of the provisions outlined herein below concerning the disputing party's right to appeal the decision to the ARC Executive Director. A copy of all such documents shall also be furnished to the Director of Business Services.

The decision of the Center Director shall be final and conclusive unless, within ten (10) calendar days of receipt of such written decision, the disputing party mails or otherwise furnishes a written appeal concerning the question of fact to the ARC Executive Director, who shall arrange a formal hearing within twenty (20) calendar days after receipt of such appeal. Both the appealing party and the cognizant Center Director shall be notified no less than five (5) calendar days in advance of the hearing and shall have the right to present witnesses and give evidence concerning the question of fact at such time. Within twenty (20) calendar days after the hearing, the Executive Director shall make a decision concerning the question of fact in writing to the appealing party and to the cognizant Center Director. A copy of the decision shall also be furnished to the Director of Business Services.

The decision of the Executive Director concerning the question of fact shall be final and conclusive unless determined by the cognizant grantor agency or agencies, or the Comptroller General of the United States, or a court of competent jurisdiction to have been arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law.

Pending final decision of an appeal to the Executive Director under a Consultant or subgrant

contract already executed, the Consultant or subgrantee shall proceed diligently with the performance of the contract and in accordance with the cognizant Center Director's decision.

Nothing in the foregoing shall be construed as making final the decisions of the cognizant Center Director or the Executive Director as such decision relate to question of law.

38. Force Majeure. In no event shall either Party be responsible or liable for any failure or delay in the performance of its obligations hereunder upon the occurrence of any circumstance beyond the control of either party, such as acts of God, war, acts of terrorism, government regulations, disaster, strikes, work stoppages, accidents, mandatory quarantines, pandemics, curfews, or other restrictions of movements, or civil disorder, to the extent that such circumstances make it illegal or impossible for either Party to fulfill the terms of this Agreement. Any termination or delay in the performance of this Agreement without liability is conditioned upon delivery of written notice to the other party setting forth the basis for such termination as soon as reasonably practical, but in no event longer than ten (10) days, after learning of such basis. It is understood that both Parties shall use reasonable efforts which are consistent with industry standard to fulfill the performance of this agreement to the extent feasible.
39. Applicable Law. This agreement shall be deemed to have been executed and performed in the State of Georgia. All questions of interpretation and construction shall be construed by the laws of Georgia.

IN WITNESS WHEREOF, the Consultant and ARC have executed this agreement as of the day first above written.

ATTEST:

XXXXXX

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

ATLANTA REGIONAL COMMISSION

\_\_\_\_\_  
ARC Assistant Secretary

By: \_\_\_\_\_  
Executive Director

By: \_\_\_\_\_  
Chair