

REQUEST FOR PROPOSALS

ARC Regional Public Affairs Services

I. PURPOSE

The Atlanta Regional Commission (ARC), an instrumentality of the State of Georgia with its office located at **229 Peachtree Street, NE, Suite 100, Atlanta, Georgia 30303**, is seeking proposals from firms experienced in regional public affairs services as outlined below. The vendor(s) will provide all equipment, personnel, expertise, facilities, financial resources, and management for this service. All proposals shall be presented in a unit price for monthly, fixed fee services and shall contain any other information requested herein. Professional services would be provided to ARC for a 24-month period beginning July 1, 2021 through June 30, 2023, with an option to renew for up to three additional one-year terms, contingent upon funding availability. Selected vendors should be prepared to sign a standard ARC contract for services which contains required federal and state clauses. A copy of this boilerplate language is attached. This RFP may result in multiple awards with the right reserved to grant all or part of this project to one or more firms. If multiple firms are selected to provide specific services, those services will be contractually delegated to that firm. Additionally, firms shall work with the ARC government affairs staff as directed.

II. ANTICIPATED TIMELINE

The timetable for this RFP is presented below:

<u>Activity</u>	<u>Target Date (All times are EST)</u>
Issue Request for Proposal	May 6, 2021
Technical Questions	May 18, 2021 (Noon)
Responses to Technical Questions	May 21, 2021 Responses will be posted to the ARC website.
Proposals Due	June 7, 2021 (5 PM)
Services to begin	July 1, 2021

Additional information should not be required to respond to this RFP. However, questions should be submitted in writing to John Bayalis no later than Noon on May 18, 2021 (Noon). Questions should be mailed to the address provided below or submitted by email to jbayalis@atlantaregional.org. All questions received, and responses to those questions, will be posted on ARC's website no later than May 21, 2021 (5 PM). Questions within this process may cover concerns of the scope of work proposed, the contract format, the fee structure, the instructions for submission, or any other questions necessary to submit a responsive and responsible proposal by the deadline.

III. INSTRUCTIONS

ARC must receive three (3) hard copies and one (1) copy in digital format, either in Microsoft Word or PDF format, no later than 5 PM June 7, 2021.

Proposals must be submitted to the following address:

Atlanta Regional Commission
ATTN: John Bayalis
229 Peachtree Street NE, Suite 100
Atlanta, Georgia 30303

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. ARC offices are currently closed. Any interview, if necessary, would take place in a virtual environment. ARC reserves the right to award this contract based on initial proposals received without formal interviews. ARC also reserves the right to negotiate the final scope and budget with the selected firm. ARC reserves the right to reject any or all proposals, to request additional information from all proposers, and to waive any informalities during the RFP process. ARC may make such investigations as deemed necessary to ensure that the companies have the requisite experience, skills, and resources to serve the needs of the agency throughout the term of the contract including contacting all listed references. In all cases, the needs and requirements of ARC will be considered first.

Interested firms should submit a proposal that addresses the requirements listed below and the Scope of Services in Exhibit A. Firms should provide a detailed breakdown of the proposed pricing following the general formats provided in Exhibits B-1. **This budget should reflect a firm fixed fee agreement based on monthly billing. The task-based budget should be best estimates to cover the work detailed in the scope of services. This is not meant to be a task-based fee structure.**

Proposals must include the following to be considered responsive:

1. Name of lead firm and any sub-contractors.
2. Point of contact (name, title, phone number, mailing address, and email address) at lead firm.
3. A detailed narrative demonstrating the firm’s understanding of ARC and its work.
4. Information showing experience, demonstrated competence, and qualifications of the firm.
5. Description of experience with public agencies.
6. Budget in the format of Exhibits B-1.
7. **If applicable**, a review of any potential conflicts with proposals to resolve those conflicts included.

8. **If applicable**, a list of any litigation in the past five years against the firm, for which the firm is the primary defendant.

Ownership of all data, materials and documentation prepared for and submitted to ARC in response to the RFP shall belong exclusively to ARC and will be considered a record prepared and maintained or received in the course of operations of a public office or agency and subject to public inspection in accordance with the Georgia Open Records Act, Official Code of Georgia Annotated, Section 50-18-70, et. seq., unless otherwise provided by law. Any confidential information in the proposal must be marked as such to be withheld from open records.

ARC encourages participation of Minority Owned Business Enterprises (MBE), Women's Business Enterprises (WBE), Small Business Enterprises (SBE) and Disadvantaged Business Enterprises (DBE) businesses in its procurement opportunities. Our procurement policy and outreach efforts ensure that these businesses have equal opportunity to compete for and do business with the agency. We continuously seek to identify qualified MBEs, WBEs, SBEs and DBEs. If you qualify as one of those types of business, please identify yourself as such in the proposal.

IV. EVALUATION CRITERIA

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

1. Understanding of the Atlanta Regional Commission and its work (30%)
2. Understanding of the Atlanta Regional Commission's major strategic challenges (30%)
3. Related experience, strength of qualifications, versatility in subject matter expertise (20%)
4. References of the firm or project team (10%)
5. Budget. (10%)

EXHIBIT A
SCOPE OF SERVICES

I. General:

The work to be accomplished by the firms or firms selected will be charged to the applicable ARC work program component. Regional Public Affairs work will be overseen by and charged to the Office of the Executive Director.

II. Background and Objectives

The Atlanta Regional Commission is the statutorily created Regional Commission and Metropolitan Area Planning and Development Commission for the 10-county¹ Atlanta region. Since 1947, ARC and its predecessor agencies have helped focus the region's leadership, attention and resources on critical issues. The agency serves as a regional convener, bringing diverse stakeholders to the table to address important issues facing metro Atlanta. ARC is designated as the Metropolitan Planning Organization (MPO), Area Agency on Aging (AAA), Atlanta Regional Workforce Development Board, Urban Area Security Initiative (UASI) administrator, and provides staffing to the Metropolitan North Georgia Water Planning District (MNGWPD). ARC's member governments are Cherokee, Clayton, Cobb, DeKalb, Douglas, Fayette, Fulton, Gwinnett, Henry and Rockdale counties, and the city of Atlanta.

ARC manages multiple policy-oriented relationships across all levels of government. In addition to educating legislators on issues generally important to the region (e.g., the impacts of projected population growth) and the work ARC contributes to the robust growth of the region, the agency engages policy makers in several specific areas including: transportation planning, aging service, workforce development, natural resources and homeland security. Maintaining existing relationships, building new ones and using data and messaging to convey the need for thoughtful policy-making across the region are of paramount importance.

III. Scopes of Work

Education and Outreach

- The selected firm(s), upon request from ARC, shall monitor and advise the agency, and, as appropriate, seek to educate policy makers on interests important to, and a function of, the Atlanta region and ARC, as directed by government affairs staff. Education and outreach will likely include, but is not limited to, feedback on policy-based information requests, technical or factual presentations regarding ARC's work in the Atlanta region on issues such as Covid-19 Recovery, Transportation, and Aging Services, or providing nonpartisan analysis, study, or research reports.

¹ The region will potentially expand to 11 counties to include Forsyth County, upon approval by the Governor of recently passed legislation.

- The Consultant shall advise ARC on maintaining necessary liaisons with relevant Members of the Georgia General Assembly to keep the public informed on work of the agency. Such assistance shall be in coordination with the work performed by the ARC's government affairs staff. Emphasis shall be placed on managing relationships with all relevant Members of the General Assembly in the service areas served by ARC, as well as with relevant Members of key House and Senate Committees, relevant agencies and committees that relate to ARC's primary work centers.
- The selected firm(s), upon request from ARC, shall be responsible for providing communications designed to provide information on ARC's work with the select legislators, advising relevant Members and staff of the agency's work and initiatives. Such activities shall include, but are not limited to, support around special events (e.g., State of the Region Breakfast), year-round individual engagements and time-sensitive communication during convened General Assembly sessions.

Public Policy Messaging/Communication Responsibilities:

- **Information Materials:** The selected firm(s) shall assist ARC with the development of informational briefing materials to be distributed to offices of relevant Members of the General Assembly, relevant state agency officials and others deemed necessary.
- **Briefings:** The selected firm(s) may be required to provide, as well as coordinate, briefings developed by ARC that serve to update relevant Members of the General Assembly, relevant state agency officials and others deemed necessary, on activities and initiatives of the agency. In such case(s), the selected firm(s) shall be responsible for advising the ARC on numerous logistical considerations for such briefings as necessary such as: timing, content and context. The selected firms will also be responsible for post-briefing follow-ups as directed by ARC government affairs staff.

Legislative Monitoring

- The Consultant shall monitor and report the actions of House and Senate per the direction of ARC government affairs staff during annual Sessions of the General Assembly. Preference should be given to relevant Committees of jurisdiction, relevant agencies and other relevant committees that relate to ARC's primary work centers.
- The selected firm(s) shall advise ARC of actions taken by such relevant committees and will suggest specific actions for the agency to take regarding educational outreach as appropriate. This may include, but not be limited to, coordinating meetings with select legislators and staff, coordinating testimony before committees and sub-committees, assisting the ARC in preparing such testimony, and arranging periodic briefing meetings for the agency's government affairs staff and, if necessary, senior leadership.

- The selected firm(s) will advise ARC as the process for annual state budget packages transpires, with particular emphasis on enhanced communication into offices of both relevant Members of the General Assembly as well as relevant state agencies.

Legislative Reporting/Strategy Consultation

- The selected firm(s) must prepare and submit to the ARC's Manager of Intergovernmental Affairs, or his/her designee, at a minimum, a written monthly status report. Each report shall include, at a minimum, a summary of the progress for activities as outlined above, a summary of all meetings and discussions held on ARC's behalf, the status of state political, policy and regulatory issues which may affect the agency.
- Participate in a conference call once per month, at a minimum, with government affairs staff to update key personnel on the current status of relevant activities at the state level.

EXHIBIT B
COMPENSATION AND METHOD OF PAYMENT

Compensation- For the provision of such public affairs work, the Firm shall be paid on a monthly basis as listed on Exhibit B-1. The nature of this work is such that demand is ongoing and not appropriate for hourly rates or fee structures. As such, costs should be provided in a monthly, fixed fee format against the scope of services categories outlined above. The proposed monthly fee shall be firm, but the outlined tasks in Exhibit B-1 are meant to be estimates, and actual costs by task may vary.

Method of Payment - The Firm shall be paid monthly for the services performed to ARC's satisfaction hereunder. The Firm shall, within ten (10) days of the end of each month, submit to ARC an itemized statement of the services performed during such month and the compensation to be received therefor. ARC shall, subject to its audit and review of same, promptly pay the amount due for such services.

EXHIBIT B-1

Proposed Project Budget

The tasks listed below should be based on reasonable estimates to complete the work outlined in the scope of services. These estimates are preliminary and actual costs by task may vary. The contract value and monthly proposed fee will be fixed, with the itemized budget used solely for the purpose of assessing the reasonableness of the proposed fixed fee.

1. <u>Education & Outreach</u>	<u>Total Est. Cost/Month</u>
Total Education & Outreach	\$_____ /Month
2. <u>Public Policy Messaging/Communication Outreach</u>	
Total Public Policy Messaging/Communication Outreach	\$_____ /Month
3. <u>Legislative Monitoring</u>	
Total Legislative Monitoring	\$_____ /Month
4. <u>Legislative Reporting/Strategy Consultation</u>	
Total Legislative Reporting/Strategy Consultation	\$_____ /Month
5. <u>TOTAL</u>	
Total Proposed Monthly Fee	\$_____ /Month

EXHIBIT C
SAMPLE FORM OF AGREEMENT

CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, entered into as of this ____ day of _____, 20__, by and between _____ of Atlanta, Georgia (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");

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 _____.
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 _____.
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. 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.
7. 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.
8. 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, and Property Damage coverage.
9. 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.
10. 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 _____ as his agent for purposes of this contract only, except for Amendments and Terminations.

11. 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.
12. 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.
13. Inspections. Authorized representatives of ARC 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 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.

14. 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 Consultant shall include the provisions of this paragraph in any subcontract executed in connection with this Project.
15. 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.
16. 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.
17. 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.
18. 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.
19. Rights in Documents, Materials and Data Produced. For purposes of this agreement, "data" includes, but is not limited to, writings, sound recordings, photographs, films, videotapes, computer programming or code, or other graphic representations and works of a similar nature. ARC 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.

20. 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 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.
21. 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.
22. Assurances. The Consultant hereby assures and certifies that it will comply with the appropriate regulations, policies, guidelines and requirements (as applicable). The Consultant gives assurance and certifies with respect to this agreement that:
 - a. For all agreements:
 - i. 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 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.

- ii. 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.
- iii. 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).
- iv. 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.

23. Certifications.

- a. Debarment and Suspension. The Consultant agrees to comply with the nonprocurement debarment and suspension rules in 49 CFR 29.
- b. 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.
- c. 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.

24. 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.

25. 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.
26. 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.
27. 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.
28. 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.
29. 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.

30. 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

By: _____

Title: _____

ATTEST

ATLANTA REGIONAL COMMISSION

Assistant Secretary

Executive Director

Board Chairman