

**PROFESSIONAL SERVICES CONTRACT
FOR
MANAGEMENT CONSULTING SERVICES**

THIS CONTRACT is made and entered into as of _____, 2025 (“Effective Date”), by and between the STATE ROAD AND TOLLWAY AUTHORITY, a body corporate and politic and an instrumentality and public corporation of the State of Georgia (“SRTA”), and _____ (the “Consultant”). SRTA and Consultant may be referred to individually, as “Party” or collectively, as “Parties.”

WHEREAS, SRTA desires to secure a qualified and experienced firm to perform Management Consulting Services as more fully described in the Request for Proposals # 25-046 and any addenda thereto and any documents referenced therein (collectively, the “RFP”), and the Consultant’s Response/Proposal and any documents referenced therein (collectively, the “Consultant’s Proposal”); and

WHEREAS, SRTA has the authority to make such contracts as the legitimate and necessary purposes of SRTA require pursuant to O.C.G.A. § 32-10-63(5); and

WHEREAS, the Consultant has represented to SRTA that it is experienced and qualified and willing to provide all of the expertise needed to successfully provide the work and services more fully described in the RFP (collectively, “Services”),

WHEREAS, SRTA has relied upon such representations and selected the Consultant to furnish the Services, and

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, agree as follows:

1. **RECITALS.** The recitals set forth above are true and correct and are incorporated into this Contract.
2. **DEFINITIONS.** Any capitalized term not specifically defined in this Contract or in **Exhibit D** will have the same meanings assigned in the RFP to that term.
3. **INCLUSION AND PRIORITY OF DOCUMENTS.** The RFP is incorporated herein by reference as **Exhibit A**. The Consultant’s response to the RFP (and any documents referenced therein), and any other information submitted in response to the RFP, (collectively, the “Response”), which were submitted in response to the RFP, are incorporated herein by reference as **Exhibit B**. The RFP and the Response are integral parts of this Contract. The RFP, the Response and this Contract (including all amendments, documents, and exhibits referenced in the Contract) shall be collectively referred to as the “Contract Documents” or the “Contract.” In the event of a conflict among the Contract Documents, the Contract Documents herein shall govern the contractual relationship between the Consultant and SRTA and shall control one over another in the following order: Amendments to the Contract, the Contract, the RFP, and the Response.
4. **CONTRACT TERM AND RENEWAL.** This Contract shall begin on the Effective Date and shall continue until Insert expiration date of Contract (the “Initial Term”). SRTA may elect to renew this Contract on the same terms and conditions for up to three (3) additional renewal periods with a term of up to one (1) year each (each a “Renewal Term”). The renewal of the Contract shall be at the sole discretion of SRTA.
5. **CONSULTANT’S RESPONSIBILITIES.**

5.1 General. In performing the Services, the Consultant shall use that degree of care and skill ordinarily exercised by other skilled professionals in the field under similar conditions and circumstances. The Services to be performed by the Consultant under this Contract shall encompass and include all detail work, services, materials, equipment, and supplies necessary to provide Services in accordance with the ordinary practices in the industry.

5.2 Personnel. The Consultant shall employ only persons qualified as applicable in the appropriate category of Services to be performed. The Consultant shall use the key personnel set forth in the Response (“Key Personnel”), unless changes to the Consultant’s staff are approved in writing by SRTA.

5.2.1 SRTA’s Right to Remove. SRTA shall have the absolute right to require the Consultant to remove an employee from performing under this Contract for any or no reason. In the event of such removal, Consultant will replace the employee with the appropriate personnel within the time specified by SRTA.

5.2.2 Consultant Program Manager. Consultant shall assign a person who shall interface with SRTA (“Consultant Program Manager”).

5.2.3 Key Personnel. A significant factor in SRTA’s decision to award this Contract to Consultant is the level of expertise, knowledge and experience possessed by employees of Consultant, particularly Key Personnel and Consultant’s agreement to have employees possessing such expertise, knowledge and experience available at all times throughout the Initial Term and each Renewal Term, to assist in the provision of the Services. Throughout the Initial Term and each Renewal Term, Consultant shall employ individuals having significant training, expertise and experience in the areas or disciplines more particularly set forth in the Contract Documents, together with such other areas of expertise, knowledge and experience as may be designated by SRTA from time to time during the Initial Term and each Renewal Term. ~~When SRTA designates an additional area for which expertise, knowledge and experience shall be required, Consultant shall use all reasonable and diligent efforts to promptly hire and retain one or more individuals possessing such expertise, knowledge and experience.~~ Consultant shall not substitute Key Personnel without the prior written approval of SRTA. Any desired substitution shall be noticed to SRTA, accompanied by the names and references of Consultant’s recommend substitute personnel.

5.3 Accuracy of Services. The Consultant shall be responsible for the accuracy of the Services and shall promptly correct its errors and omissions without additional compensation from SRTA. Acceptance of the Services by SRTA will not relieve the Consultant of the responsibility for subsequent correction of errors, the clarification of any ambiguities, or for the costs associated with any additional work, which may include costs caused by negligent errors in, or negligent omissions from, the reports prepared by the Consultant.

5.4 Interpretation of Information. At any time during the performance of any Services, the Consultant shall confer with SRTA for the purpose of interpreting the information obtained and to correct any errors or omissions. These consultations, clarifications, or corrections shall be made without added compensation to the Consultant other than what has been provided for under the terms of this Contract. The ~~Consultant Parties~~ shall give immediate attention to these changes so there will be minimum delay to others.

5.5 Safety. The Consultant shall take all reasonable precautions in the performance of the Services and shall cause its employees, agents and sub-consultants to do the same. The Consultant alone shall be responsible for the safety, efficiency, and adequacy of its Services, and employees, agents and sub consultants, and for any damage that may result from their actions or inactions.

6. PROJECT MANAGEMENT. SRTA shall identify a person who shall act as and be SRTA’s

representative between SRTA and the Consultant (“SRTA Program Manager”).

7. SUBCONTRACTING AND ASSIGNMENT.

7.1 Assignment. Consultant shall not assign, delegate, sublet or transfer this Contract or any rights under or interest in this Contract without the prior written consent of SRTA. The consent of SRTA may be withheld for any reason.

7.2 Subcontracting. Nothing contained herein shall prevent Consultant from employing independent professional associates, sub consultants as Consultant may deem appropriate to assist in the performance of Services hereunder. However, Consultant shall not subcontract Services to sub consultants that are different from those sub consultants listed in the Response, without obtaining SRTA’s prior written approval, which approval is within SRTA’s sole discretion. SRTA reserves the right to review all subcontracts prepared in connection with the Contract, ~~subject to any confidentiality obligations set forth therein and Contractor agrees that it shall submit to SRTA any proposed subcontract documents together with subcontractors cost estimates for review and written concurrence of SRTA no later than five (5) business days in advance of execution.~~ Any contract between the Contractor and subcontractors shall comply with all pertinent provisions to subcontractor’s responsibilities in connection with the Services of this Contract. SRTA’s approval of any assignment, sublet, or transfer shall not release the Contractor of any obligation under this Contract or as otherwise required by Law. All subcontracts in the amount of \$10,000.00 or more shall include the applicable provisions set forth in this Contract.

SRTA shall have the right to require the Consultant to remove a sub consultant of Consultant from performing under this Contract, if in SRTA’s sole opinion, such sub consultant (a) is not performing its portion of the Services satisfactorily, (b) is failing to cooperate as required in the Contract Documents, (c) is posing a security risk to any project or to SRTA’s business, (d) is otherwise breaching a term of the Contract Documents that is applicable to that portion of the Services being performed by the sub consultant, or (e) presence on a project is not in the best interest of SRTA. In the event of such removal, Consultant will replace the sub consultant with a suitable replacement within the time specified by SRTA.

7.3 Consultant Remains Responsible. If Consultant subcontracts any of the Services to be performed under this Contract, Consultant shall be as fully responsible to SRTA for the acts, errors, or omissions of Consultant’s sub consultant and of the persons employed by them as Consultant is for the acts and omissions of persons directly employed by Consultant. ~~Consultant shall be obligated to assist SRTA in the enforcement of any rights that SRTA has against such sub consultant.~~ Notwithstanding any subcontract or agreement with any sub consultant, Consultant shall be fully responsible to SRTA for all of the Services required pursuant to the Contract Documents. Notwithstanding any provision to the contrary, Consultant shall be responsible to SRTA for all terms, conditions, liabilities, and responsibilities under the Contract Documents regardless of whether Consultant or its sub consultants, suppliers, independent contractors, agents or assigns perform any aspect of the Services.

7.4 Mandatory Terms in Subcontracts. Nothing contained in this Contract shall create any contractual relationship between any sub consultant of Consultant and SRTA. Any subcontract entered into as a result of this Contract, shall contain all applicable provisions of the Contract Documents that in any way relate to an item of Services that any sub consultant will perform and/or furnish, as well as provisions pertaining to, records, and payment methods. ~~The Consultant shall further ensure that all subcontracts entered into with its sub consultant grant SRTA all of the rights and privileges of such subcontract, including but not limited to (so long as SRTA is not in default of its obligations under this Contract) SRTA’s right to secure materials or services from the sub consultant that might be a part of the sub consultant’s Services, in the event Consultant defaults under the Contract Documents.~~

7.5 Payments to Sub consultants. Consultant represents and agrees that for the duration of the Initial Term and each Renewal Term it shall make timely payments for Services properly performed to any sub consultant hereunder and Consultant shall indemnify and hold harmless SRTA and the State for any liability for payment claimed by a subconsultant.

7.6 Failure to Comply. Any assignments or subcontracts made in violation of **Sections 7.1 (Assignment) and/or 7.2 (Subcontracting)** shall be null and void.

8. RELATIONSHIP OF THE PARTIES. Each Party, in the performance of this Contract, shall be acting in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other Party. The employees, agents, partners or contractors of one Party shall not be deemed or construed to be the employees, agents, partners or contractors of the other Party for any purposes. Neither Party shall assume any liability of any type on behalf of the other Party or any of such other Party's employees, agents, partners or contractors. The Parties expressly understand and agree that Consultant is an independent Consultant of SRTA in all manner and respect and that neither Party to this Contract is authorized to bind the other Party to any liability or obligation or to represent in any way that it has such authority. Consultant shall be solely responsible for all payments to its subcontractors, agents, consultants, suppliers, employees, partners or any other parties with which it does business including, but not limited to, paying all benefits, taxes and insurance, including workmen's compensation insurance, for Consultant's employees.

9. EMPLOYMENT OF AUTHORITY'S PERSONNEL. Consultant shall not employ any person or persons in the employ of SRTA for any work required by the terms of this Contract without the written permission of SRTA except as may otherwise be provided for herein.

10. PAYMENT. The maximum not to exceed amount for all Services performed during the Initial Term is \$Insert maximum not to exceed amount., unless otherwise agreed to in writing by SRTA.

10.1 General. For full and complete compensation for all work, materials, and Services furnished under the terms of this Contract shall be set forth in **Exhibit C – Consultant's Rates**.

10.2 ~~Payment Obligations of Consultant.~~ ~~Consultant shall pay from the proceeds it receives from SRTA its employees, agents, assigns, subcontractors and suppliers who provided any part of the Services.~~ Reserved.

10.3 Overpayment. In the event an overpayment is made to Consultant under this Contract, Consultant shall immediately refund to SRTA the full amount of any such erroneous payment or overpayment following ~~Consultant's SRTA's~~ written notice of such erroneous payment or overpayment, as issued by SRTA. If Consultant fails to refund the erroneous payment or overpayment within a 30-Day period, SRTA shall be entitled to interest at one percent per month on the amount not repaid from the date of overpayment.

10.4 Reduction of Payment for Non-Conforming Services. If any defined action, duty or service or other item of Services required by the Contract Documents is not performed by the Consultant in accordance with the requirements of the Contract Documents, the value of such action, duty or service or other item of Services will be determined by SRTA and deducted from any invoice claiming such items for payment. If the Services or part thereof has been completed and is not in conformance with the Contract Documents, the Consultant will be notified and given the opportunity to correct any deficiencies within a time certain. Payment (for the non-conforming Services) will be withheld by SRTA from any invoice until such time as the Services is corrected in accordance with the Contract Documents.

10.5 Withholding Payments. SRTA reserves the right to withhold payment or payments in whole or in part, and to continue to withhold any such payments for Services not completed or not completed in accordance with the Contract Documents. SRTA may withhold all or part of any amounts due

Consultant to protect SRTA from a loss, including but not limited to, losses caused by the following: (a) failure or alleged failure of Consultant to make proper payments to its subcontractors for Services; (b) failure of Consultant to carry out/or remedy the Services in accordance with the Contract; or (c) Consultant's breach of warranties. Any and all such payment previously withheld shall be released and paid to Consultant promptly when the Services are subsequently performed in accordance with the Contract Documents.

- 10.6 Payment not Acceptance.** Payment or use of any Services or portions thereof by SRTA shall not constitute an acceptance of any Services not performed in accordance with the Contract Documents.
- 10.7 Net 30 Days.** Provided all the conditions in **Section 10 (Payment)** have been met to SRTA's satisfaction, and Consultant is not otherwise in breach of this Contract, SRTA agrees to pay Consultant in accordance with SRTA's normal processes and procedures for all undisputed amounts within thirty (30) Days of the later of a review, if any, undertaken by SRTA pursuant to **Section 17.1 (Review of Services)** or SRTA's receipt of a valid invoice. If SRTA objects to any invoice submitted by Consultant, SRTA shall advise Consultant in writing giving reasons therefor within fourteen (14) business days of receipt of such invoice. If any invoice submitted by Consultant is disputed by SRTA, only that portion so disputed may be withheld from payment.
- 10.8 Invoicing.** The Consultant shall deliver to SRTA an **audit-worthy** invoice on a monthly basis by the tenth (10) Day of the month following the month in which Services was performed, **upon final delivery of the Services, or as directed by Task Order**. The Consultant shall submit separate invoices as each Services is completed. SRTA will be entitled at all times to be advised at its request as to the status of Services being done by the Consultant and the details thereof.

Consultant shall also provide the following with each invoice: all other documents, records, correspondence, and deliverables which Consultant and other persons performing the Services are required to provide SRTA under the Contract.

All invoices shall reference SRTA Contract No. 25-046. The applicable invoice addresses for SRTA is as follows:

State Road and Tollway Authority
Attn: Accounts Payable
245 Peachtree Center Avenue, NE, Suite 2200
Atlanta, GA 30303-1426
Email: einvoices@srta.ga.gov

- 10.9 Late Fees.** SRTA shall not be liable for late fees, collection fees, attorney's fees, interest, or other fees incurred by the Consultant as a result of non-payment or a delay in payment by SRTA.
- 10.10 Right to Set-Off.** SRTA may retain any set off amount owed to it by Consultant, as determined pursuant to **Section 22 (Dispute Resolution)**.
- 10.11 Full Compensation.** All Services performed by the Consultant in meeting the requirements of the Contract Documents shall be paid as set forth herein, which shall constitute full compensation for the Services, including but not limited to: (a) the cost of all insurance and bond premiums, home office, job site and other overhead, and profit relating to Consultant's performance of its obligations under this Contract; (b) the cost of performance of each and every portion of the Services (including all costs of all Services provided by subcontractors and suppliers); (c) the cost of obtaining all governmental approvals and all costs of compliance with and maintenance of such governmental approvals; (d) all risk of inflation, currency risk, interest and other costs of funds associated with the progress payment schedule for the Services as provided herein; and (e)

payment of any taxes, duties, permits and other fees and/or royalties imposed with respect to the Services and any Equipment, materials, supplies, documentation, labor or services included therein.

10.12 Overtime. Unless otherwise authorized in writing by SRTA, no premium pay or overtime will be paid by SRTA.

10.13 Costs and Expenses. Consultant will not be reimbursed for any out-of-pocket expenses that are incurred in connection with the performance of the Services, including, but not limited to, any travel, air fare, meals, ground transportation, parking, communication, reproduction, and other such incidental costs. SRTA will not reimburse Consultant for time spent or costs incurred traveling to and from SRTA's office and Consultant's office. SRTA will not withhold any taxes on amounts paid to Consultant, and all federal, state, and local taxes will be Consultant's responsibility to pay. SRTA will not reimburse Consultant for any such taxes.

10.14 Covenants against Contingent Fees. The Consultant shall comply with the relevant requirements of all federal, state and local laws in effect as of the date hereof. The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the Department shall have the right to annul this Contract without liability or, in its discretion to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

11. PROCESS. SRTA will order from Consultant, all or a portion of the Services as such Services, in SRTA's sole opinion, is needed. The expected project deliverables are set forth in Exhibit E (Scope of Services), or as otherwise included in any task order. All task orders shall be subject to the terms and conditions of the Contract Documents.

11.1 Project Schedule. The performance time of each Service shall be set in **Exhibit E (Scope of Services)** or as otherwise included in any task order, as applicable. Any Services performed before or after the time set forth in **Exhibit E (Scope of Services)** or as otherwise included in any task order will be ineligible for payment. Unless an extension of time is granted by SRTA pursuant to **Section 11.2 (Time Extensions)** of this Contract, Consultant will successfully, fully and entirely complete and otherwise perform all Services as required in the Contract Documents.

11.2 Time Extensions. SRTA will only grant an extension of time if the Consultant is delayed in the progress of the Services by (i) any act or neglect of SRTA, (ii) an event listed in **Section 28.4 (Time of the Essence; Force Majeure)**, or (iii) other governmental actions. If and when such event occurs, then the time of completion set forth shall be extended for such time equal to the time lost as a result of the delay. The Consultant expressly agrees that the Consultant's sole and exclusive remedy for such delay shall be an extension of time within which to perform the affected Services and that the Consultant shall not be entitled to any damages and shall make no demand for any damages. No such extension shall be made for delay occurring more than ten (10) days before claim thereof is made in writing to SRTA. In the case of a continuing case of delay, only one claim is necessary, but no claim for a continuing delay shall be valid unless the Consultant, within ten (10) days from the cessation of the delay, shall have given notice in writing to SRTA as to the amount of additional time claimed.

In the event time for performance of scheduled Services expires and the Consultant has not requested or if SRTA has denied an extension of the completion date, Consultant must nevertheless continue Services until the same is complete. No payment shall be made for Services performed after the expiration of the Service completion date except where a time

extension has been executed by both Parties in accordance with **Section 11.2**.

12. INDEMNIFICATION.

12.1 General Liability. The Consultant shall be responsible to SRTA for those costs, expenses, liabilities, allegations, claims, bodily injuries, including death, or damage to real or personal property, arising out of or resulting from any wrongful and/or negligent act or omission, the breach of contract, the failure to perform, or other default regarding the Services by the Consultant, its employees, agents, or any of its subcontractors or others working at the direction of the Consultant or on its behalf.

12.2 General Indemnification. Consultant hereby agrees to indemnify and hold harmless SRTA, the state of Georgia and its departments, authorities, agencies and instrumentalities and all of their respective officers, members, employees and directors (hereinafter collectively referred to as the "Indemnitees") from and against any and all claims, demands, liabilities, losses, costs or expenses, including reasonable attorneys' fees, due to Consultant's liability to a third party or parties, for any loss due to bodily injury (including death), personal injury, and property damage arising out of or resulting from the negligent performance of this Contract or any negligent act, error, or omission on the part of the Consultant, its agents, employees, subcontractors or others working at the direction of Consultant or on its behalf, or due to any breach of this Contract by the Consultant, or due to the application or violation of any pertinent Federal, State or local law, rule or regulation by the Consultant or its sub consultants. This indemnification extends to the successors and assigns of the Consultant. This indemnification obligation survives the termination of the Contract and the dissolution or, to the extent allowed by law, the bankruptcy of the Consultant. If and to the extent such damage or loss (including costs and expenses) as covered by this indemnification is paid by the State Tort Claims Trust Fund, the State Authority Liability Trust Fund, the State Employee Broad Form Liability Fund, the State Insurance and Hazard Reserve Fund, and other self-insured funds (all such funds hereinafter collectively referred to as the "Funds") established and maintained by the State of Georgia Department of Administrative Risk Management Division (hereinafter "DOAS") the Consultant agrees to reimburse the Funds for such monies paid out by the Funds.

12.2.1 DOAS. Risk Management will endeavor to notify affected insurers of claims made against the State that fall within this indemnity. In the event of litigation, SRTA will request the Attorney General to endeavor to keep the Consultant and its general liability insurer as named on the insurance certificate informed regarding the claims and settlement.

12.2.2 Obligations Not Mutually Exclusive. The Consultant's obligations under this Section are in addition to Consultant's obligations under **Section 13 (Insurance)**.

12.3 Disclaimer of Consequential Damages. Notwithstanding any provision to the contrary, in no event shall either Party be liable to the other Party for any incidental, consequential, special, exemplary or indirect damages, lost business profits or lost data arising out of or in any way related to this Contract.

13. LIMITATION OF LIABILITY. The following limitation of liability provisions shall apply except as otherwise provided in a Task Order.

Formatted: Font: Bold

13.1 Except as otherwise provided herein, Consultant's liability for damages to SRTA for any cause whatsoever under a Task Order shall be limited to two times the amount payable under the applicable Task Order.

Formatted: Indent: Left: 0.33", No bullets or numbering

Formatted: Indent: Left: 0.91", No bullets or numbering

13.2 No limitation on Consultant's liability to the State shall apply to Consultant's liability for (a) loss of or damage to real or tangible personal property; (b) claims for personal injury or bodily injury, including death; (c) claims resulting from gross negligence, recklessness, willful and wanton misconduct, intentional misconduct or bad faith; (e) Consultant's indemnification obligations hereunder; (f) data loss or security breach; (g) breach of confidentiality obligations; (h) any loss or claims to the extent such loss or claims is covered by a policy of insurance maintained, or required to be maintained, by Consultant.

13.3 Nothing herein shall limit or affect Consultant's liability for claims brought by any third party.

13.14. INSURANCE.

13.14.1 Insurance Certificates. The Consultant shall procure the insurance coverages identified below at the Consultant's expense and shall furnish SRTA an insurance certificate listing SRTA, their respective Board of Directors, officials, agents and employees as the certificate holder and an endorsement listing SRTA as an additional insured on the commercial general liability and business automobile policies. Evidence of insurance coverages shall be provided on the form acceptable to SRTA and the Georgia Office of the Insurance Commissioner. The insurance certificate must provide the following:

- 13.1.114.1.1 Name and address of authorized agent
- 13.1.214.1.2 Name and address of insured
- 13.1.314.1.3 Name of insurance company(ies)
- 13.1.414.1.4 Description of policies
- 13.1.514.1.5 Policy Number(s)
- 13.1.614.1.6 Policy Period(s)
- 13.1.714.1.7 Limits of liability
- 13.1.814.1.8 Name and address of SRTA as certificate holder
- 13.1.914.1.9 Project Name and Number
- 13.1.1014.1.10 Signature of authorized agent
- 13.1.1114.1.11 Telephone number of authorized agent
- 13.1.1214.1.12 Mandatory thirty (30) Day notice of cancellation or non-renewal (except ten (10) Days for non-payment).

13.214.2 **Insurer Qualifications, Insurance Requirements.** Each of the insurance coverages required below (i) shall be issued by a company licensed by the Insurance Commissioner to transact the business of insurance in the State of Georgia for the applicable line of insurance, and (ii) shall be an insurer (or, for qualified self-insureds or group self-insureds, a specific excess insurer providing statutory limits) with a Best Policyholders Rating of "A-" or better. Each such policy shall contain the following provisions:

13.2.114.2.1 *Written Notice of Changes.* The Consultant shall notify SRTA upon the cancellation of any insurance affecting this Contract. Such notice shall be valid only as to the Project as shall have been designated by Project Number and Name in said notice. Consultant shall provide written notice of any changes to the policy to SRTA within three (3) Business Days of Consultant's receipt of notice of any changes or proposed changes from the insurance company.

13.2.214.2.2 *Separation of Insureds.* The policy shall not be subject to invalidation as to any insured by reason of any act or omission of another insured or any of its officers, employees, agents or other representatives.

13.2.314.2.3 *Representation by Georgia Attorney General.* Each Insurer is hereby notified that the statutory requirement that the Attorney General of Georgia shall represent and

Formatted: List Paragraph, Left, No bullets or numbering, Tab stops: Not at 0.33"

Formatted: Font: Not Bold, Not Expanded by / Condensed by

Formatted: Indent: Left: 0.91", No bullets or numbering

defend the Indemnities remains in full force and effect and is not waived by issuance of any policy of insurance. In the event of litigation, any settlement on behalf of the indemnities must be expressly approved by the Attorney General. The Consultant and its insurance carrier may retain, but are not obligated to retain, counsel to assist with the defense of the Indemnities, in which case there will be mutual cooperation between the Attorney General and such counsel. See O.C.G.A. § 45-15-12.

~~13.2.4~~14.2.4 *Deductibles*. All deductibles shall be paid for by the Consultant.

~~13.3~~14.3 **Required Insurance Coverages**. From insurers rated at least A- by Best's and registered to do business in the State of Georgia, the Consultant shall provide the following kinds of insurance in the minimum amount of coverage set forth below. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of the Contract. SRTA reserves the right to require redacted copies of all insurance policies and endorsements required by this Contract at any time.

~~13.3.1~~14.3.1 *Workers' Compensation and Employer's Liability*. Statutory coverage shall be maintained for Worker's Compensation as required by the laws of the State of Georgia.

~~13.3.2~~14.3.2 *Commercial General Liability Insurance*. Commercial General Liability Insurance of at least \$1,000,000 per occurrence \$3,000,000 aggregate, including Automobile. The Consultant shall require its sub-consultants to maintain Commercial General Liability insurance with business automobile liability coverage with companies and limits as stated above.

~~13.3.3~~ *Commercial Umbrella Liability Insurance*. ~~The Consultant shall provide a Commercial Umbrella Liability Insurance to provide excess coverage above the Commercial General Liability, Commercial Business Automobile Liability and the Workers' Compensation and Employers' Liability to satisfy the minimum limits set forth herein. The umbrella coverage shall follow form with the Umbrella limits required as follows: \$1,000,000 per Occurrence/\$2,000,000 Aggregate.~~

~~13.3.4~~14.3.3 *Professional Liability (Errors and Omissions) Insurance*. Limits shall not be less than the following:

- For Professionals – \$1,000,000 per claim and \$1,000,000 in aggregate coverage;
- For Other Consultants – \$1,000,000 per claim and \$1,000,000 in aggregate coverage.
- The Consultant shall maintain professional liability insurance that shall be either a practice policy or project-specific coverage. Professional liability insurance shall contain prior acts coverage for services performed by the Consultant for this Project. If project-specific coverage is used, these requirements shall be continued in effect for two years following issuance of the Certificate of Final Completion for the Project.

~~13.4~~14.4 **Insurance Premiums and Deductibles**. The Consultant shall pay the insurance premiums and shall be responsible for payment of all deductibles and self-insured retention.

~~13.5~~14.5 **Termination of Obligation to Insure**. Unless otherwise expressly provided to the contrary, the obligation to insure as provided herein shall not terminate until the expiration or other termination of the Contract.

~~13.6~~14.6 **Failure of Insurers**. The Consultant is responsible for any delay resulting from the failure of his insurance carriers to furnish proof of proper coverage in the prescribed form.

13.714.7 **Ongoing Coverage.** Consultant is responsible for tracking insurance coverages for itself and its subcontractors, for ensuring that coverages remain in force throughout the duration of the Contract, and for demonstrating to SRTA ongoing compliance with this **Section 13**.

13.814.8 **General.** The Consultant's obligations under this Section are in addition to Consultant's obligations under **Section 12 (Indemnification)**.

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

13.1014.10 **Additional Insured Endorsement.** SRTA shall be named as an additional insured on all required insurance except for Worker's Compensation and Professional Liability insurance and a copy of each policy endorsement shall be provided with each insurance certificate.

14.15 **ADDITIONAL CONSULTANT RESPONSIBILITIES AND REPRESENTATIONS.** The Consultant represents to SRTA and agrees that throughout the Initial Term and each Renewal Term that:

14.115.1 **Licenses.** The Consultant has and will maintain and keep in full force and effect during the term of the Contract all required licenses, certifications, and permits necessary to perform all or part of the Services; and

14.215.2 **Organization.** The Consultant is authorized to do business in the State of Georgia;

14.315.3 **Authorization by Consultant.** The Consultant has authorized the execution, delivery, and performance of this Contract;

14.415.4 **Authorization of Signer.** The person signing this Contract has been duly authorized by Consultant to execute and deliver same;

14.515.5 **Valid Contract.** This Contract is valid, enforceable, and legally binding obligation of the Consultant;

14.615.6 **Cooperation.** Consultant shall fully cooperate with SRTA, SRTA-designated Representatives, SRTA's other contractors and vendors, and any other governing authority, in furnishing all the Services required by the Contract Documents.

14.715.7 **Services/Labor.** All deliverables, documentation, Services, services and labor shall (a) conform to the performance, capabilities, accuracy, completeness, characteristics, specifications, configurations, standards, and functions required by the Contract Documents, and (b) be performed on time, and in a workmanlike manner, and in accordance with the standard of care and skill exercised by other providers of similar labor and services under similar circumstances at the time the labor and services are provided.

14.815.8 **Intellectual Property.** As used in this Contract, "Intellectual Property" shall mean any and all know-how, inventions, patents, copyrights, models, designs, trademarks, trade dress, trade secrets, discoveries, regulatory filings, or other information (whether or not patentable and whether or not in tangible or intangible form), and any other industrial or proprietary rights, and any documentation relating thereto, and any and all applications for any of the foregoing, whether or not registered as of the Effective Date or at any later date. Consultant represents that Consultant, its agents, employees, subconsultants, and assigns will neither violate nor in any way infringe upon the Intellectual Property rights of SRTA or of any other third party.

15.16 **COOPERATION.** SRTA shall be entitled to full and prompt cooperation of the Consultant in all SRTA Contract No. 25-046 Management Consulting Services

aspects of the Services. Consultant shall also fully and promptly cooperate with SRTA's Contractors, vendors, and other consultants and other governmental entities, all as directed by SRTA to the extent required to fulfill its obligations under this Contract. Such cooperation shall include attendance at meetings, ~~discussions and discussions, and hearings~~, as may be requested by SRTA, furnishing plans and other data produced in the course of Services for SRTA projects, as may be requested from time to time by SRTA to effect such cooperation, and compliance with all directives issued by SRTA. In the event the Consultant deems that any other of SRTA's contractors/vendors or other third parties is delaying the Services or otherwise interfering with the Services, Consultant shall immediately notify SRTA in writing of this matter, including a detailed explanation of such delay so that SRTA may investigate the issue and assist with a resolution. Consultant's failure to furnish a detailed written notification within seven (7) business days after any contractor, vendor, and/or other third party first failed to cooperate with Consultant or otherwise improperly performed their work, shall result in SRTA's denial of any future claim by Consultant that such third party failed to properly perform their work or failed to cooperate with Consultant and Consultant shall be deemed to have waived such claim and Consultant shall be held to any applicable requirement under the Contract Documents that Consultant alleges is affected thereby.

16.17. REVIEW/AUDITS.

16.17.1 Review of Services. SRTA and SRTA-designated Representatives, may at all reasonable times have access to review and inspect the Consultant's activities and data collected under the terms of the Contract Documents. All books, documents, plans, papers, records, reports, drawings, studies, specifications, estimates, maps and computations, prepared by or for the Consultant under the terms of the Contract Documents, shall be available to SRTA and SRTA-designated Representatives for inspection and review at all reasonable times in SRTA's offices. Acceptance of any Services by SRTA shall not relieve the Consultant of its obligation to correct, at its expense, any of its errors in the Services.

16.217.2 Records Retention. The Consultant and any sub consultants shall keep available for inspection and maintain all books, documents, papers, accounting records, and evidence pertaining to costs incurred as a result of the performance of Services under the Contract Documents and make available at all reasonable times to SRTA and the State, for a period of five years after receipt of final payment. Notwithstanding the preceding sentence, if any litigation, claim, or audit arising out of, in connection with, or related to this Contract is initiated before the expiration of the five-year period, the cost records and accounts shall be retained until such litigation, claim or audit involving the records completed. Copies of these documents and records will be furnished to SRTA upon request and may be audited by SRTA-designated Representatives.

16.317.3 Audit. SRTA or SRTA-designated Representatives may audit Consultant's books and records and perform any other review necessary in order to determine the accuracy of any Consultant Invoice upon reasonable prior notice and during business hours. In the event such an audit reveals that SRTA was overcharged by five (5%) percent or more during the time period covered by the audit, then Consultant shall pay for all costs and expenses incurred by SRTA or SRTA-designated Representatives in performing such audit.

17.18. OWNERSHIP OF DOCUMENTS. The Consultant agrees that all reports, drawings, studies, specifications, estimates, maps, computations, computer files and other data, prepared pursuant to the Contract Documents shall be delivered to, become and remain in the property of SRTA upon the earlier of termination or completion of the Services upon receipt of final payment by Consultant. SRTA shall have the right to use same without restriction or limitation and without compensation to the Consultant other than that provided for in this Contract. Any use of these documents by SRTA on any project other than the project which was the subject of the applicable Service under which the documents were prepared shall be done without liability by the Consultant. Notwithstanding the above, if any of this Services is based on Intellectual Property owned by Consultant ~~prior to the Effective Date~~ ("Consultant Intellectual Property"), then all such reports, drawings, studies, specifications, survey notes, estimates, maps,

computations, computer files and data, prepared pursuant to the Contract Documents shall be delivered to, become and remain in the property of SRTA with the exception of such Consultant Intellectual Property, for which Consultant hereby grants SRTA an irrevocable, non-exclusive, non-transferable and royalty free license to use such Consultant Intellectual Property. Consultant shall not publish or make public any of the Services or by-products therefore unless required by law or authorized in writing by the Executive Director of SRTA. In such case Consultant shall notify SRTA as far in advance as possible to allow SRTA, if it deems appropriate, to seek legal redress to prevent such publications.

18.19. INTELLECTUAL PROPERTY

18.19.1 Work Made for Hire. To the extent possible, any papers, interim reports, forms, and other material which are a part of the Services specifically developed and created by Consultant pursuant to the Contract Documents shall be deemed a "work made for hire" for SRTA, with SRTA being deemed the author thereof with all rights, title and interest in all such Services and other work product owned by SRTA (collectively, "Work Product"). In the event that any such Work Product is deemed not to be a work made for hire for SRTA, then with the exception of any pre-existing Intellectual Property rights owned by Consultant that were used in performing the Services, Consultant hereby irrevocably assigns to SRTA all right, title and interest in all such work including, without limitation, all Intellectual Property rights with respect thereto, and further agrees to execute and deliver such other and further assignments, certificates of originality and other documents and instruments as reasonably requested by SRTA in order for SRTA to evidence and perfect its ownership of all rights with respect thereto. Consultant acknowledges and agrees that the provisions of this Section apply regardless of any disputes, payment issues or other claims that may exist between the Parties, and that SRTA's ownership of all rights with respect to such Work Product is unconditional. Such Work Product shall include any and all modifications, improvements, adaptations, revisions, updates, releases, new versions, derivative works, and documentation (including any specifications, copies, notes, summaries or analyses) comprising, based on, derived from, or related to any work made for hire, including any of the foregoing that is conceived, discovered, invented, created, developed or made by Consultant or its subcontractors (Consultant and its subcontractors shall be referred to as "Consultant Parties"). None of the Consultant Parties shall have any proprietary interest in such Work Product. The Consultant Parties shall not assert any ownership interest or conditions to executing assignments and other documents to evidence and perfect SRTA's ownership of all rights in and to same, and any claims that the Consultant Parties may have against SRTA shall exclude claims challenging SRTA's ownership of same. In the event this Contract is terminated, all Work Product whether completed or not shall be delivered to SRTA within ten (10) Days from the date of termination. To the extent any Consultant Intellectual Property is incorporated into any Services, then Consultant agrees to and does hereby grant to SRTA and to the State an irrevocable, non-exclusive, non-transferable and royalty-free license to use such Intellectual Property.

18.219.2 Ownership of Data/Security. All data, records and operations history information in any way relating to SRTA, its customers or a Contract, and/or Contract Amendment shall remain the property of SRTA at all times during the Contract and after Contract termination for whatever reason.

19.20. TERMINATION.

19.120.1 Termination for Cause. Upon an Event of Default as defined in **Section 23.1 (Event of Default)**, SRTA may, in its sole discretion, terminate this Contract, in whole or in part. Termination shall take effect on the date set forth in SRTA's notice to Consultant, which shall be no less than fifteen (15) Days after the date of such notice, provided, however, that Consultant shall have an opportunity to cure upon receipt of such notice for any such alleged Event of Default, or to submit a plan for cure acceptable to the SRTA, except in the case of financial improprieties, fraud or other

criminal activity on Consultant's part in which case, termination shall be effective immediately upon notification. Upon such termination, SRTA will have the right to appropriate or use any or all Services (whether or not complete) as SRTA determines. Upon such termination SRTA shall not be required to pay Consultant any amounts for Services performed prior to the date of termination for which payment may be due and owing but not yet paid ("Remaining Payment"). In the event SRTA's expenses incurred or anticipated to be incurred as a result of Consultant's breach are less than the Remaining Payment, SRTA shall remit such differential to the Consultant. In the event SRTA's expenses incurred or anticipated to be SRTA as a result of Consultant's breach exceed the Remaining Payment, including any costs of SRTA incurred by any delay (or from any reason attributable to the delay) then Consultant shall within five (5) Days written notice from SRTA, make payment of the differential to SRTA. In addition to the rights and remedies in this Section, SRTA shall have all other rights and remedies against Consultant which are available at law or in equity. The Consultant acknowledges that the remedy set forth in this Section is the Consultant's sole and exclusive remedy against SRTA for termination for cause and Consultant hereby waives all other rights and remedies it may have against SRTA, whether at law or in equity.

19.220.2 Termination for Convenience. SRTA may terminate this Contract, in whole or in part, for convenience upon five (5) business days before the effective date of such termination. Consultant will be paid for all Services performed in accordance with the terms and conditions of this Contract prior to termination, less amounts due SRTA pursuant to the Contract Documents. All Services performed shall remain the property of SRTA. SRTA shall not be responsible to Consultant for, and Consultant hereby waives any right to, any other costs, fees and expenses of any nature whatsoever including, but not limited to, administrative fees, legal fees, costs to set up or shut down operations, salary, overhead, or any other cost or expense, whether direct or indirect, whether foreseen or unforeseen. The Consultant acknowledges that the remedy set forth in this Section is the Consultant's sole and exclusive remedy against SRTA for termination for convenience and Consultant hereby waives all other rights and remedies it may have against SRTA, whether at law or in equity.

19.320.3 Termination in General. Under no circumstances shall a proper termination by SRTA (with or without cause) constitute a default by SRTA. In the event of a termination for convenience or for cause SRTA shall notify Consultant of such action and with instructions as to the effective date of termination or suspension, in accordance with the time frames set forth in this Section. In the event of a termination for convenience or for cause, Consultant shall comply with the terms and conditions of **Section 24.2 (Transition)**. Consultant shall not be paid for, and Consultant hereby waives any claim to special, indirect, consequential or undocumented expenses, lost profit, overhead or any other type of payment (except payment for satisfactory Services actually performed in accordance with the Contract) regardless of the reason for termination. Consultant shall not be liable for any errors or omissions contained in deliverables which are incomplete as a result of suspension or termination where Consultant is deprived of the opportunity to complete Consultant's Services.

19.420.4 Termination for Lack of Funding. Consultant acknowledges that institutions of the State of Georgia are prohibited from pledging the credit of the State so as to prevent incurring a financial obligation unless funds to honor the obligation have been lawfully appropriated. Consequently, as may be the case, if the sources of payment for the Agreement no longer exist or are determined to be insufficient, SRTA will notify Consultant promptly (and in any event within thirty (30) days) after SRTA becomes aware of such and may immediately terminate this Agreement upon notice to Consultant without any further obligation, other than payment for Services performed through the termination date. The determination of SRTA as to the occurrence of the events stated in this paragraph will be conclusive.

19.520.5 Compliance with Contract. Consultant shall comply with all of the terms and conditions of the Contract Documents including, but not limited to, the provisions of **Section 24**

(Cooperation, Transition of Services, and End of Contract Responsibilities), in the event SRTA exercises any of its rights under this Section.

20-21. CHANGES IN CONSULTANT ORGANIZATION. The Consultant shall notify SRTA in writing within five (5) Business Days upon any action that changes Consultant's corporate structure, including company mergers, company acquisitions, changes in corporate names, changes in corporate officers, changes in corporate governing structure, and similar relevant information. Such notification shall identify how the change in corporate business structure will impact SRTA, including payments to the Consultant, and Consultant shall identify how these impacts to SRTA will be mitigated. Consultant shall immediately notify SRTA of any material adverse change since the Effective Date in Consultant's financial condition, business, affairs or operations, or of the existence of any material impairment of rights or ability of Consultant to carry on as its business and operations as are currently conducted.

21-22. CONFIDENTIALITY. ~~Consultant~~ The Parties acknowledges that in order to perform the Services called for in this Contract, it will be necessary for SRTA to disclose to Consultant certain trade secrets, and confidential information concerning the Services, SRTA's customers, operations, projects, procurements and any confidential and/or proprietary information of any of SRTA's vendors (collectively, "Confidential Information"). ~~Consultant~~ The Parties agrees that ~~they~~ shall use ~~their~~ best efforts to keep the Confidential Information strictly confidential and shall not disclose, transfer, use, copy, or allow access to any such Confidential Information to any employees or to any third parties excepting those who have a need to know such Confidential Information in order to allow Consultant to perform the Services, and who have executed a nondisclosure agreement with either Consultant or SRTA consistent with the provisions hereof.

21-22.1 No Obligation of Confidentiality. ~~Consultant~~ The Parties shall not have any obligation of confidentiality with respect to any Confidential Information which: (i) can be conclusively demonstrated by the Consultant to have been in its possession or known by it prior to receipt of the Confidential Information under this Contract; (ii) is disclosed by the Consultant with the written approval of SRTA; (iii) is developed independently by the Consultant without reference in any way to the Confidential Information provided under this Contract; or (iv) is obligated to be disclosed by order of a court of competent jurisdiction or is subject to disclosure under the Georgia Open Records Act.

21-22.2 Use of Confidential Information. Consultant and its representatives shall use the Confidential Information solely for the purpose of providing the Services required under the Contract Documents and shall not in any way use the Confidential Information to the detriment of SRTA or its Customers.

21-322.3 Return of Confidential Information. The Consultant shall return to SRTA any Confidential Information immediately on request but no later than upon the termination for whatever reason of this Contract.

22-23. DISPUTE RESOLUTION. In the event of any dispute whatsoever arising out of or relating to the Contract Documents or the Services, the disputing Party must furnish a written notice to the other Party, setting forth in detail the dispute. Such notice must be addressed to the SRTA Program Manager and SRTA's Procurement Director or the Consultant Program Manager, as applicable. Within five (5) Days after the receipt of the notice by the receiving party, the SRTA Program Manager and the Consultant Program Manager shall meet in SRTA's offices to attempt to resolve the dispute. If the SRTA Program Manager and the Consultant Program Manager cannot resolve the dispute or otherwise agree to extend the time within which to attempt to resolve the dispute then, within five (5) Days after the date of written notice by either individual to the Executive Director of SRTA and the Managing Principal of the Consultant, the Executive Director of SRTA and the Consultant's Managing Principal shall meet in SRTA's offices to attempt to resolve the dispute. If the Executive Director of SRTA and the Consultant's Managing Principal cannot resolve the dispute or otherwise agree to extend the time within which to attempt to resolve the dispute, then either Party may pursue those remedies only as

allowed under this Contract.

23.24. EVENT OF DEFAULT; DAMAGES/REMEDIES.

23.24.1 Event of Default. The following shall constitute an Event of Default on the part of the Consultant:

23.24.1.1 The Consultant withheld, disrupted or delayed Services due to non-payment by SRTA, if such withholding of payment is allowed under **Section 10 (Payment)**;

23.24.1.2 The Consultant has failed to deliver the Services or a component thereof on a timely basis, except to the extent of an excusable delay in accordance with **Section 11.2 (Time Extensions)** and the continuance thereof for a period of five (5) Business Days after notice is given to the Consultant by SRTA;

23.24.1.3 The performance of the Consultant is not completed in accordance with the terms and conditions of this Contract;

23.24.1.4 The Consultant becomes insolvent (other than pursuant to a case, proceeding, or other action pursuant to subparagraph (a)(xii)), or has assigned the proceeds of the Contract for the benefit of the Consultant's creditors (except any assignment of proceeds as collateral for any loan), or the Consultant has taken advantage of any insolvency statute or debtor/creditor law or the Consultant's property or affairs have voluntarily been put in the hands of a receiver; or any case, proceeding or other action against the Consultant is commenced in bankruptcy, or seeking reorganization, liquidation or any relief under any bankruptcy, insolvency, reorganization, liquidation, dissolution or other similar act or law of any jurisdiction, which case, proceeding or other action remains undismitted, undischarged or unbonded for a period of thirty (30) Days;

23.24.1.5 The Consultant failed to provide "adequate assurances" within three (3) Days of SRTA's notice, when, in the opinion of SRTA, reasonable grounds for uncertainty exist with respect to the Consultant's ability to perform any of its obligations under this Contract;

23.24.1.6 The suspension or revocation of any license, permit, or registration necessary for the performance of the Consultant's obligations under this Contract;

23.24.1.7 The Consultant suspended or failed to proceed with any part of the Services;

23.24.1.8 The default in the performance or observance of any of the Consultant's other obligations under the Contract Documents.

23.24.2 SRTA Damages/Remedies. Upon the occurrence of an Event of Default, SRTA may, in addition to and without prejudice to all other contractual remedies and/or remedies allowed at law or in equity, proceed to take any or all of the following actions:

23.24.2.1 Withhold any money then due and/or thereafter due to Consultant;

23.24.2.2 Perform or cause to be performed for the account of Consultant any contractual obligation, the performance of which the Consultant is in default, or make any payment for which the Consultant is in default. The Consultant shall pay to SRTA upon demand any amount paid or incurred by SRTA in the performance of such obligation. Any amounts which have been paid or incurred by reason of failure of

the Consultant to comply with any obligation or provision of this Contract shall bear interest at the Default Rate, which shall be defined as the Prime Rate plus five (5) percent, but in no case higher than the highest rate permitted by law, from the date of payment by SRTA until paid by the Consultant (“Default Rate”); and

~~23.2.3~~24.2.3 Obtain the Services, or a portion thereof, from a third party under substantially similar terms of this Contract, and recover from Consultant all additional costs and expenses paid or incurred by SRTA as a result of the Event of Default, plus all additional costs paid or incurred by SRTA to obtain the replacement Services as set forth in this Section.

24.25. COOPERATION, TRANSITION OF WORK, AND END OF CONTRACT RESPONSIBILITIES.

~~24.1~~25.1 **Cooperation.** In the event that SRTA enters into any agreement at any time with any other consultant(s) for work related to the Services, Consultant agrees to cooperate fully with such other consultant(s) in order to facilitate the performance of the Services and/or provision of work by such other consultant(s) and to refrain from any activity which would interfere with performance of the Services and/or provision of work by such other consultant(s).

~~24.2~~25.2 **Transition.** Upon expiration or earlier termination of this Contract, Consultant shall accomplish a complete transition of the Services from Consultant to SRTA, to a SRTA-designated Representative or to any replacement provider designated by SRTA, without any interruption of, or adverse impact on the Services any component thereof or any other Services provided by third parties. Consultant shall cooperate fully with SRTA, a SRTA-designated Representative, or such replacement provider and promptly take all steps required to assist in effecting a complete transition. All Services related to such transition shall be performed at no additional cost beyond what would be paid for the Services hereunder **at the rates set forth in Exhibit C (Consultant Rates)** and any other work for which there are no labor or equipment rates set forth in **Exhibit C (Consultant Rates)** shall be set forth in a writing signed by both Parties.

Formatted: Font: Bold

~~24.3~~25.3 **End of Contract.** The Consultant shall perform the end of Contract responsibilities as ~~mutually agreed upon by the Parties reasonably specified by SRTA~~ upon the expiration or earlier termination of this Contract.

~~24.4~~25.4 **Failure to Comply.** The Parties acknowledge and understand that Consultant’s failure to comply with the terms and conditions as stated hereinabove shall adversely affect SRTA and result in monetary loss to SRTA. SRTA shall assess, audit, and certify to the Consultant SRTA’s monetary losses resulting from the Consultant’s failure to comply with the provisions of this Section.

25.26. CONFLICTS OF INTEREST. SRTA’s employees are bound by the Georgia Governor’s Executive Order dated January 10, 2011 for “Establishing a Code of Ethics for Executive Branch Officers and Employees.” The Executive Order prohibits SRTA’s employees, or any person acting on their behalf, from accepting, directly or indirectly, any gift from any person with whom the employee interacts on official SRTA business. Therefore it is unlawful for the Consultant, or its subconsultants or suppliers, to make gifts or favors to any of SRTA’s employees. It is also unlawful for a SRTA employee to accept any such gift or favor. The Consultant represents and warrants that it, its principals, its employees, and all others in close association or otherwise affiliated with it, have no conflict of interest or of time, directly or indirectly, that would prevent timely performance of the Services in a manner that is free of appearance or fact of impropriety. ~~The Consultant further represents and warrants that it, its principals, its employees, and all others in close association or otherwise affiliated with it have no conflicting role on a separate project directly or indirectly involving SRTA that would impair the Consultant’s objectivity in performing the Services under this~~

Formatted: Not Highlight

Contract. The Consultant promises to ~~allow-not knowingly allow~~ such conflict to arise and promises to disclose such a conflict in the event that, nevertheless, one develops. Such disclosure must be made in writing to the SRTA Program Manager no later than five (5) Days after such conflict arises. SRTA reserves the right to award all or part of the Services described in Exhibit E to another firm if SRTA determines that a conflict of interest exists.

26-27. EXHIBITS. The following Exhibits are incorporated by reference into and made a part of the Contract Documents:

Exhibit A- RFP

Exhibit B- Consultant's Response to RFP

The following Exhibits are attached hereto and incorporated into the Contract Documents:

Exhibit C- Consultant Rates

Exhibit D- Definitions

Exhibit E – Scope of Services

27-28. MISCELLANEOUS.

27-128.1 Compliance with laws. The Consultant shall perform its obligations hereunder in accordance with all applicable federal, state, and local government laws, rules, regulations, orders, ordinances and approvals, including but not limited to procedures and requirements relating to labor standards, equal employment opportunity, nondiscrimination, compliance with Americans with Disabilities Act, anti-solicitation, O.C.G.A. §50-5-82, O.C.G.A. §13-10-91, immigration (O.C.G.A. §13-10-91 et seq.), and auditing and reporting provisions, now or hereafter in effect, and any rules required by any federal grant funding payment by SRTA.

27-228.2 Sexual Harassment Prevention. The State of Georgia promotes respect and dignity and does not tolerate sexual harassment in the workplace. The State is committed to providing a workplace and environment free from sexual harassment for its employees and for all persons who interact with state government. All State of Georgia employees are expected and required to interact with all persons including other employees, contractors, and customers in a professional manner that contributes to a respectful work environment free from sexual harassment. Furthermore, the State of Georgia maintains an expectation that its contractors and their employees and subcontractors will interact with entities of the State of Georgia, their customers, and other contractors of the State in a professional manner that contributes to a respectful work environment free from sexual harassment.

Pursuant to the State of Georgia's Statewide Sexual Harassment Prevention Policy (the "Policy"), all contractors who are regularly on State premises or who regularly interact with State personnel must complete sexual harassment prevention training on an annual basis.

If the Consultant, including its employees and subcontractors, violates the Policy, including but not limited to engaging in sexual harassment and/or retaliation, the Consultant may be subject to appropriate corrective action. Such action may include, but is not limited to, notification to the employer, removal from State premises, restricted access to State premises and/or personnel, termination of contract, and/or other corrective action(s) deemed necessary by the State.

27-2-128.2.1 If Consultant is an individual who is regularly on State premises or who will regularly interact with State personnel, Consultant certifies that:

- Consultant has received, reviewed, and agreed to comply with the State of Georgia's Statewide Sexual Harassment Prevention Policy located at <http://doas.ga.gov/human-resources-administration/board-rules-policy-and-compliance/jointly-issued-statewide-policies/sexual-harassment-prevention-policy>;
- Consultant has completed sexual harassment prevention training in the last year and will continue to do so on an annual basis; or will complete the Georgia Department of Administrative Services' sexual harassment prevention training located at this direct link <https://www.youtube.com/embed/NjVt0DDnc2s?rel=0> prior to accessing State premises and prior to interacting with State employees; and on an annual basis thereafter; and
- Upon request by the State, Consultant will provide documentation substantiating the completion of sexual harassment training.

27-2-228.2.2 If Consultant has employees and subcontractors that are regularly on State premises or who will regularly interact with State personnel, Consultant certifies that:

- Consultant will ensure that such employees and subcontractors have received, reviewed, and agreed to comply with the State of Georgia's Statewide Sexual Harassment Prevention Policy located at <http://doas.ga.gov/human-resources-administration/board-rules-policy-and-compliance/jointly-issued-statewide-policies/sexual-harassment-prevention-policy>;
- Consultant has provided sexual harassment prevention training in the last year to such employees and subcontractors and will continue to do so on an annual basis; or Consultant will ensure that such employees and subcontractors complete the Georgia Department of Administrative Services' sexual harassment prevention training located at this direct link <https://www.youtube.com/embed/NjVt0DDnc2s?rel=0> prior to accessing State premises and prior to interacting with State employees; and on an annual basis thereafter; and
- Upon request of the State, Consultant will provide documentation substantiating such employees and subcontractors' acknowledgment of the State of Georgia's Statewide Sexual Harassment Prevention Policy and annual completion of sexual harassment prevention training.

27-328.3 **Parties Bound.** This Contract will bind the respective heirs, executors, administrators, legal representatives, successors, and assigns of each Party.

27-428.4 **Time of the Essence; Force Majeure.** Time is of the essence for all Services performed pursuant to the Contract Documents. The Consultant shall perform its responsibilities in accordance with the schedule set forth therein. However, neither Party shall be liable to the other Party for any delay or failure of performance due to fires or other casualties, acts of God, unusual weather conditions, strikes or labor disputes, war, or any cause beyond the reasonable control of either Party. Consultant's exclusive remedies for force majeure are set forth in **Section 11.2 (Time Extensions)**.

27-528.5 **Non-disparagement.** Each Party agrees not to make any statement, written or oral, to any third party which disparages or criticizes the other Party or the other Party's respective officers, directors, employees, agents or management and business practices, in each case in connection with the performance or administration of the Services, this Contract, any other work/relationship

between the other Parties under separate agreement, or any matter related thereto. The provisions of this Section shall not apply to any truthful statement required to be made by either Party, or such Party's officers, directors or agents, as the case may be, in any legal proceeding or governmental or regulatory investigation or to any internal discussions or communications between the Parties.

27-628.6 Trading with State Employees. The Consultant represents that the provisions of O.C.G.A. §§45-10-20 *et seq.* have not and will not be violated under the terms of this Contract.

27-728.7 Registered Lobbyists. Consultant represents and warrants that the Consultant and its lobbyists, if any, are in compliance with the Lobbyist Registration Requirements in accordance with the Georgia Procurement Manual, incorporated herein by reference.

27-828.8 Governing Law and Venue. This Contract is a Georgia agreement made under the laws of the State. It will be enforced according to Georgia law without regard to its conflict of laws rules or any other rules directing referral to foreign law or forums. Any action related to this Contract in any way shall be brought exclusively in the Superior Court of Fulton County, Georgia, and each Party hereby consents to the jurisdiction and venue of such Court and the appropriate appellate courts therefrom in any such action and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the personal jurisdiction and venue of such court and to any claim of inconvenient forum. Each Party hereby agrees to execute an acknowledgment of service of process at the request of the other Party in any litigation related to this agreement. In the event that a Party does not provide an acknowledgment of service as agreed, each Party consents to service of process at that Party's address set forth in **Section 28.9 (Notices)**.

27-928.9 Notices. All notices, ~~notifications, approvals, acceptances, requests~~notifications, requests, permission, waivers or other communications (excluding invoices that will be handled as set forth in **Section 10 (Payment)** hereunder shall be in writing and transmitted via hand delivery, overnight courier, or certified mail to the Parties at the respective addresses set forth below. Consultant shall submit a complete, audit worthy invoice to the following address: State Road and Tollway Authority, ATTN: Accounts Payable, 245 Peachtree Center Avenue NE, Suite 2200 Atlanta, GA 30303 and at invoices@srtc.ga.gov. Invoices may also be sent by U.S. Mail, postage prepaid. Notices will be deemed to have been given when received, unless otherwise noted in the Contract. If a Party refuses to accept delivery or fails to take delivery, notice shall be deemed given on the day delivery is first attempted. Notice may also be given by email, provided a hard copy of the notice is also transmitted via hand delivery, overnight courier, or certified mail to the Parties at the respective addresses set forth below.

For SRTA:
State Road and Tollway Authority
Attn:
245 Peachtree Center Avenue NE, Suite 2200
Atlanta, Georgia 30303
Phone: (404) 893-
Email:

For the Consultant:

27-1028.10 Taxes. The Consultant will pay all taxes lawfully imposed upon it that may arise with respect to this Contract.

27-1128.11 Safety and Health/No Discrimination. Consultant shall at all times comply with and require that all of its subcontractors performing Services under this Contract comply with all applicable federal and State occupational safety and health standards, rules, regulations and federal and State orders. Consultant shall not and shall cause any subcontractor to not discriminate on the basis of race, color, national origin, sex, age, religion or handicap in the performance of the

Services under the Contract Documents. Consultant shall carry out and shall cause its subcontractors to carry out, applicable requirements of 49 CFR Part 26. Consultant shall include this provision in every subcontract pertaining to the Services.

27.1228.12 Publicity. Consultant shall not issue a press release or otherwise publicize the Services or this Contract without the prior written permission of SRTA's Chief Communications Officer. Notwithstanding the foregoing, Consultant may reference this Contract in other RFP proposals.

27.1328.13 Drug-Free Workplace. Consultant certifies that (i) a drug free workplace will be provided for the Consultant's employees during the performance of this Contract, and (ii) it will secure from any subcontractor, agent or assign hired to work in a drug free workplace the following written certification: "As part of the subcontracting agreement with (Consultant's Name), (Subcontractor's Name), certifies to the Consultant that a drug free workplace will be provided for the subcontractor's employees during the performance of this Contract pursuant to paragraph 7 of subsection B of Code Section 50-24-3." Consultant may be suspended, terminated, or debarred if it is determined that (i) the Consultant has made false certification hereinabove, or (ii) the Consultant has violated such certification by failure to carry out the requirements of O.C.G.A. § 50-24-3.

27.1428.14 Remedies Cumulative. The rights and remedies of SRTA under this Contract are cumulative of one another and with those otherwise provided by law or in equity.

27.1528.15 Waiver and Severability. The waiver by SRTA of a breach of any provision of this Contract shall not be deemed to be a waiver of such provision on any subsequent breach of the same or any other provision of this Contract. Any such waiver must be in writing in order to be effective, and no such waiver shall establish a course of performance between the Parties contradictory to the terms hereof. All provisions of this Contract are severable, and the unenforceability or invalidity of any of the provisions will not affect the validity or enforceability of the remaining provisions. The remaining provisions will be construed so as to carry out the full intention of the Parties.

27.1628.16 No Third-Party Beneficiaries. Nothing contained in the Contract Documents shall be construed as conferring upon or giving to any person, other than the Parties hereto, any rights or benefits under or by reason of this Contract.

27.17 Interpretation.

27.17.28.17.1 The captions in this Contract are solely for convenience, and will not affect the interpretation of any terms of this Contract.

27.17.28.17.2 Wherever the word "including" "includes" or "include" is used in this Contract, it shall be deemed to be followed by the words "without limitation."

27.18 Counterparts. The Parties may execute this Contract in counterparts.

27.19 Construction of Contract. In the event this Contract must be interpreted by a court of competent jurisdiction as defined in **Section 27.8 (Governing Law and Venue)**, the Parties expressly agree that this is a negotiated Contract that will not be construed against one Party over the other because such Party drafted the Contract.

27.20 Survival. In addition to those provisions, which by their terms would naturally survive termination of the Contract, **Sections 3 (Inclusion and Priority of Documents), 7 (Subcontracting and Assignment), 10 (Payment), 12 (Indemnification), 13 (Insurance), 14 (Additional Consultant Responsibilities and Representations), 16 (Review/Audits), 17 (Ownership of Documents), 18 (Intellectual Property), 19 (Termination), 21 (Confidentiality), 23 (Event**

of Default; Damages/Remedies), 24 (Cooperation, Transition of Services and End of Contract Responsibilities), and 27 (Miscellaneous) shall survive the termination for whatever reason of this Contract.

27.21 Non-exclusivity. This Contract is entered into solely for the convenience of SRTA and the State, and in no way precludes SRTA from obtaining like goods or services from other consultants at SRTA's sole discretion.

27.22 Entire Contract; Amendment. This Contract contains the entire agreement between the Parties with respect to its subject matter and supersedes all other prior and contemporaneous contracts and understandings between the Parties, whether oral or written. SRTA shall not be bound by any terms and conditions included in any packaging, invoice, catalog, brochure, technical data sheet, or other document prepared by the Consultant which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein. No amendment to this Contract shall be valid unless made in writing and signed by both Parties.

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed effective as of the Effective Date.

State Road and Tollway Authority

Consultant

By: _____

By: _____

Jannine Miller
Executive Director

Name: _____
Title: _____

Attest: _____

Attest: _____

Merryl Mandus
General Counsel

Name: _____
Title: _____

**EXHIBIT A
REQUEST FOR PROPOSALS**

Incorporated herein by reference.

DRAFT

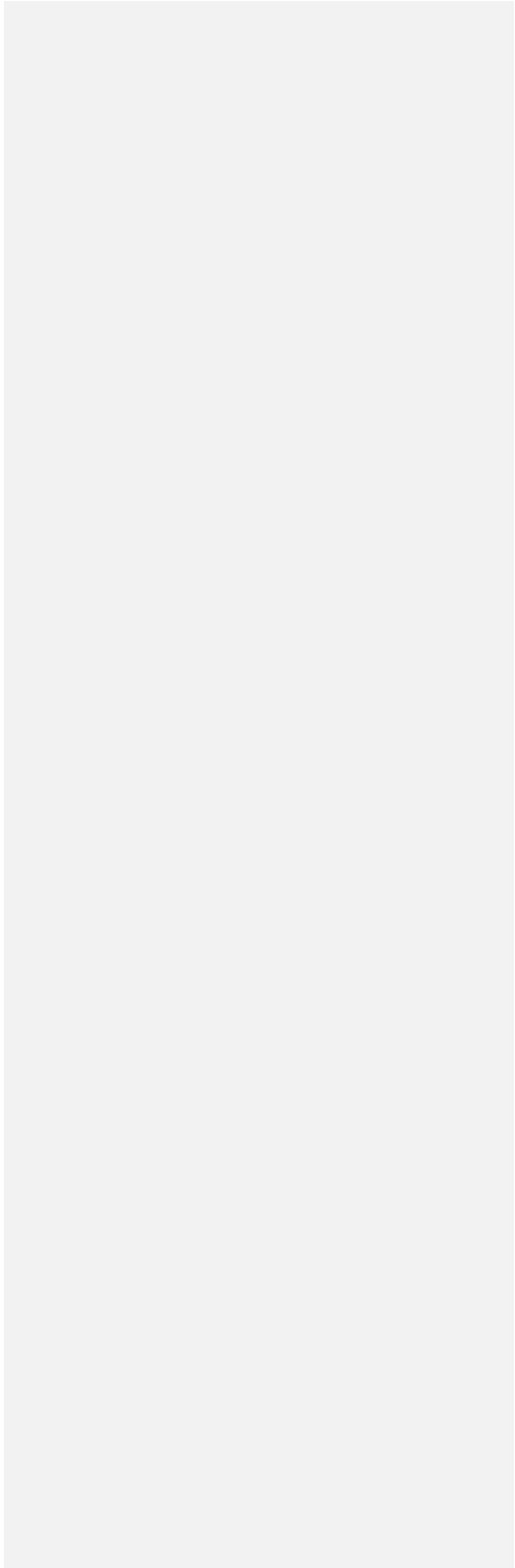
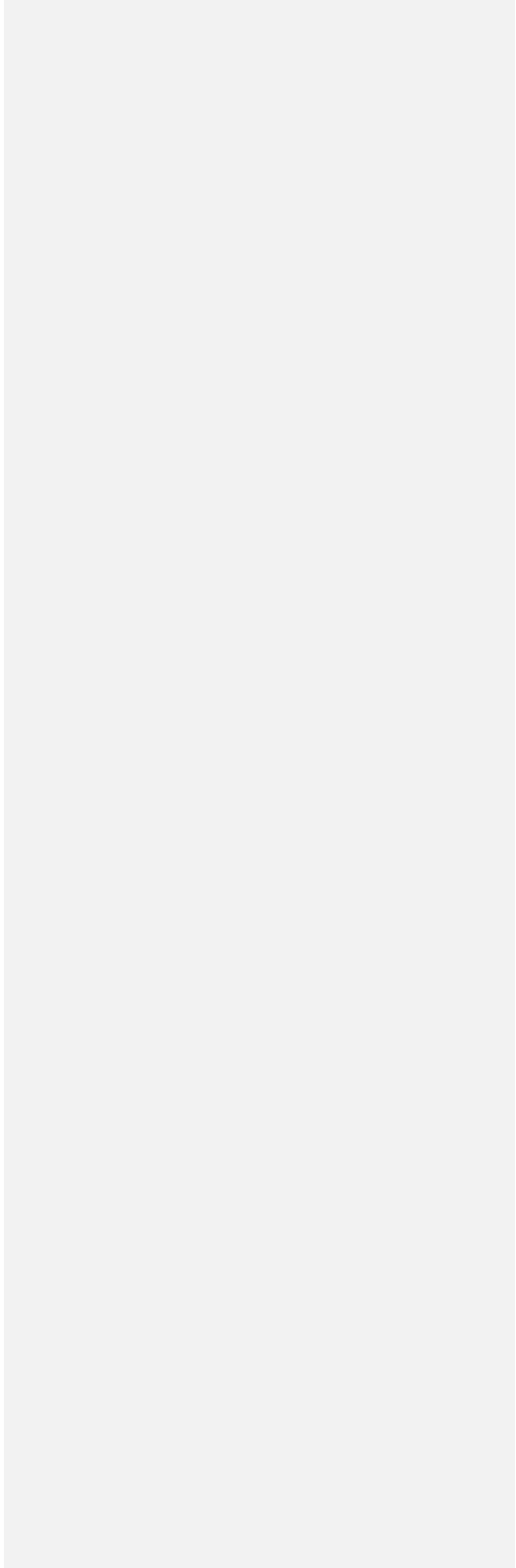


EXHIBIT B
CONSULTANT'S RESPONSE TO RFP NO. 19-021

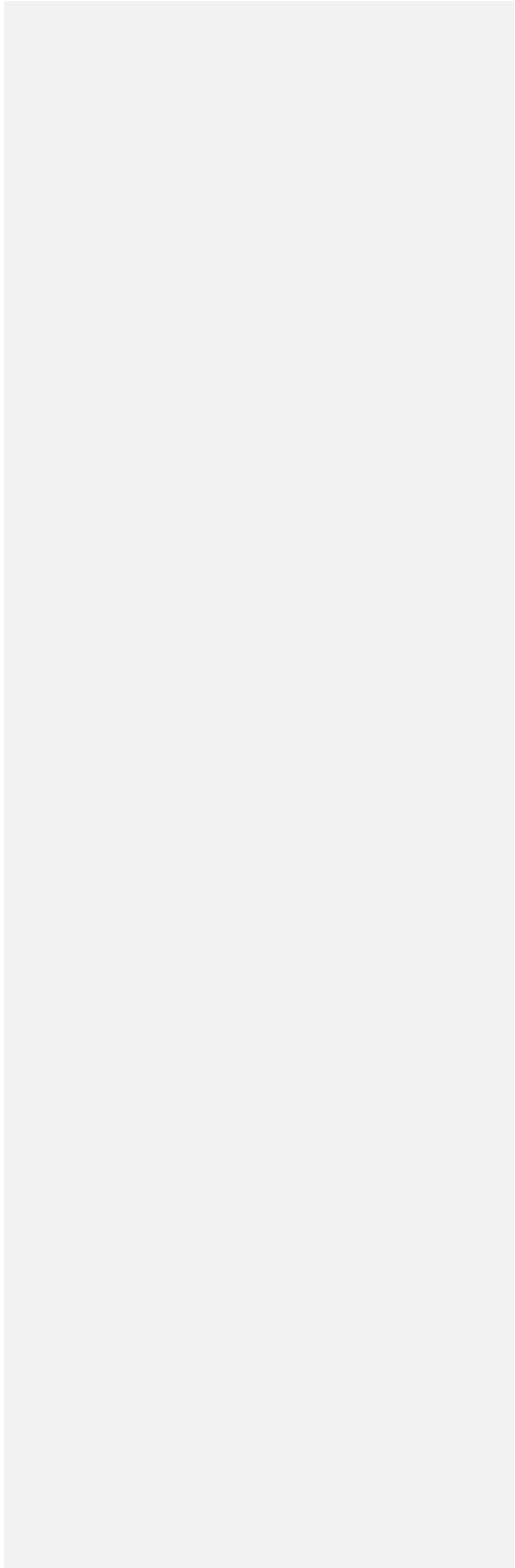
Incorporated Herein by Reference

DRAFT



**EXHIBIT C
CONSULTANT'S RATES**

DRAFT



**EXHIBIT D
DEFINITIONS**

Amendment means a document that is properly signed by both Parties that changes the terms and conditions of this Contract.

Business Day(s) means Monday through Friday excluding State recognized holidays.

Confidential Information shall have the same meaning assigned to it in **Section 21 (Confidentiality)** of the Contract.

Compensation for Services means the monetary compensation paid for the Services performed as more specifically described in **Section 10 (Payment)** of the Contract

Consultant shall have the same meaning assigned to it in the preamble of the Contract.

Consultant Intellectual Property shall have the same meaning assigned to it in **Section 17 (Ownership of Documents)** of the Contract.

Consultant Parties shall have the same meaning assigned to it in **Section 18.1 (Work Made for Hire)** of the Contract.

Consultant Program Manager shall have the same meaning assigned to it in **Section 5.2.2 (Consultant Program Manager)** of the Contract.

Contract Documents shall have the same meaning assigned to it in **Section 3 (Inclusion and Priority of Documents)** of the Contract.

Contract shall have the same meaning assigned to it in **Section 3 (Inclusion and Priority of Documents)** of the Contract.

Day(s) shall mean calendar days unless otherwise specified in the Contract as a Business Day.

Default Rate shall have the same meaning assigned to it in **Section 23.2.2 (SRTA Damages/Remedies)** of the Contract.

DOAS shall have the same meaning assigned to it in **Section 12.2 (General Indemnification)** of the Contract.

Effective Date shall mean the date set forth in the preamble of the Contract.

Event of Default shall have the meaning assigned to it in **Section 23.1 (Event of Default; Damages/Remedies)** of the Contract.

Funds shall have the same meaning assigned to it in **Section 12.2 (General Indemnification)** of the Contract.

Georgia Open Records Act shall refer to O.C.G.A. § 50-18-70.

Indemnitees shall have the same meaning assigned to it in **Section 12.2 (General Indemnification)** of the Contract.

Initial Term shall have the meaning assigned to it in **Section 4 (Contract Term and Renewal)** of the Contract.

Intellectual Property means any and all know-how, inventions, patents, copyrights, models, designs, trademarks, trade dress, trade secrets, discoveries, regulatory filings, or other information (whether or not patentable and whether or not in tangible or intangible form), and any other industrial or proprietary rights, and any documentation relating thereto, and any and all applications for any of the foregoing, whether or not registered as of the Effective Date or at any later date.

Invoice shall have the same meaning assigned to it in **Section 10.8 (Invoicing)** of the Contract.

Key Personnel means employees of the Consultant, or any sub consultant(s), affiliates, joint venture partners, or team members, and consultants engaged by any of those entities, ~~designated as such by the Consultant in its Response, whose work is considered by SRTA to be essential to the Services being performed under the Contract Documents. The following personnel are considered at a minimum to be Key Personnel: all primary subject matter experts and any staff billing more than 20 hours under this contract. Persons considered Key Personnel are set forth more fully in Section 5.2.2 (Consultant Program Manager) of the Contract.~~

O.C.G.A shall mean the Official Code of Georgia Annotated.

Party/Parties shall have the same meaning assigned to it in the preamble of the Contract.

Project shall mean the scope of Services for accomplishing the Services as specified in the Contract Documents.

Remaining Payment shall have the same meaning assigned to it in **Section 19.1 (Termination for Cause)** of the Contract

Renewal Term shall have the meaning assigned to it in **Section 4 (i)** of the Contract.

RFP shall have the same meaning assigned to it in the preamble of the Contract.

Response shall have the same meaning assigned to it in **Section 3 (Inclusion and Priority of Documents)** of the Contract.

SRTA means the State Road and Tollway Authority.

SRTA Program Manager shall have the same meaning assigned to it in **Section 6 (Project Management)** of the Contract.

SRTA-designated Representative shall mean the employee(s), individual(s), consultant, partnership, firm, or corporation authorized by SRTA to act on behalf of SRTA in matters related to this Contract.

State shall mean the State of Georgia.

Services shall have the same meaning assigned to it in the preamble to the Contract.

Work Product shall have the same meaning assigned to it in **Section 18.1 (Work Made for Hire)** of the Contract.

Exhibit E

Form Task Order

**STATE ROAD & TOLLWAY AUTHORITY
TASK ORDER**

MASTER CONTRACT #: _____
TASK ORDER #: _____

Amendment No. (if applicable) Task Order Amount: \$
Total Task Order Amount to Date: \$

AUTHORITY AND CONSULTANT CONTACT INFORMATION:

The Authority's mailing address and telephone number for correspondence, reports, and other matters relative to this contract, except as otherwise indicated, are:

Authority's Project Manager:

State Road & Tollway Authority
Attn:
245 Peachtree Center Avenue NE, 22nd Floor
Atlanta, Georgia 30303
Telephone #: 404-
E-Mail: @srta.ga.gov

Consultant's Project Manager:

(Insert Consultant Firm Name)
Attn:
Address Line 1
Address Line 2
Telephone #:
Email:

Authority's Procurement & Contracts Manager:

Attn: Procurement Manager
245 Peachtree Center Avenue NE, 22nd Floor
Atlanta, Georgia 30303
Telephone #:
E-Mail:

Task Order # (Insert Number)

Effective Date: (Month) (Day), (Year)

1. **Contract Terms.** This Task Order shall be governed by the terms and conditions of the (insert contract name) Contract, dated (insert contract effective date), by and between the State Road and Tollway Authority (“SRTA”) and (insert company name) (“Contractor”) (the “Contract”). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Contract.

2. **Scope of Services.**

2.1. **Description:** (insert project description)

2.2. **Type of Task Order:** (insert method of compensation)

2.3. **Date by which work in this Task Order must be completed:** (insert date)

3. The cost of this Task Order is outlined below.

--	--	--	--	--

4. **Compensation in Full.** The payment and extension of time (if any) provided by this task order constitutes compensation in full on behalf of the Contractor and its subcontractors and suppliers for all costs and markups, directly and indirectly attributable to the changes ordered herein, for all delays related thereto and for performance of changes within the time stated.

5. **DBE Participation Information.** (insert applicable information or put N/A)

AGREED:

State Road and Tollway Authority (Insert Contractor Firm Name)

Jannine Miller
Executive Director

Name:
Title: