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NATHAN DEAL
Governor

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Executive Director and
State Chief Information Officer

**INTERGOVERNMENTAL AGREEMENT
BY AND BETWEEN
MIDDLE GEORGIA REGIONAL COMMISSION
AND
GEORGIA TECHNOLOGY AUTHORITY**

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is made and entered into by and between Middle Georgia Regional Commission ("MGRC") and GEORGIA TECHNOLOGY AUTHORITY ("GTA"), hereinafter collectively referred to as the "Parties."

WHEREAS, MGRC and GTA desire to enter into this Agreement pursuant to 1983 Georgia Constitution, Article IX, § 3, ¶ 1 and other applicable provisions of Georgia law, for the purpose of memorializing the terms and conditions upon which MGRC agrees to provide the services described in Attachment A, attached hereto and hereinafter referred to as the "Services"; and

WHEREAS, MGRC is authorized and has the capability to provide the Services pursuant to O.C.G.A. §50-8-31 et seq.; and

WHEREAS, GTA desires for MGRC to provide the Services.

NOW THEREFORE, MGRC and GTA, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, do hereby agree as follows:

SECTION 1 – SCOPE OF SERVICES

GTA agrees to engage the services of MGRC and, MGRC agrees to perform those services established in ATTACHMENT A.

SECTION 2 – EXPECTATIONS OF GTA

MGRC's provision of services is contingent upon the assistance of GTA as provided in ATTACHMENT A.

SECTION 3 – MILESTONES AND PROJECT SCHEDULE

Upon written notice of award, MGRC will begin work as outlined in ATTACHMENT A. This contract shall expire on the 31st day of December, 2014.

SECTION 4 - COMPENSATION

MGRC will devote sufficient staff to the project with the capabilities and expertise to provide overall project management and technical assistance for 11 Regional Commissions to complete their planning project. MGRC will devote sufficient staff to complete the Middle Georgia Regional Plan. MGRC will prepare interim bills as the work progresses based on the milestones and project schedule established in ATTACHMENT B. The total amount of payments to be paid by GTA to MGRC for work performed under this contract shall be **\$740,000**.

SECTION 5 - METHOD OF PAYMENT

Amounts will be billed by the MGRC RC on an ongoing basis. Payment is expected within fifteen (15) working days of receipt of an invoice. The maximum amount payable under this contract will not exceed **\$740,000 .00** unless this amount is changed and mutually agreed upon in writing by both parties.

SECTION 6 - OWNERSHIP

All data, reports, maps, or other deliverables produced in whole or in part under this contract shall remain the property of GTA. Furthermore, MGRC will not apply for a copyright for any reports, data, or other documents produced in whole or in part under this agreement.

SECTION 7 - MGRC'S RELATIONSHIP TO GTA

It is expressly agreed and understood that MGRC is in all respects an independent Contractor as to work and is in no respect any agent, servant, or employee of GTA. The contract specifies the work to be done by MGRC, but the method to be employed to accomplish the work shall be the responsibility of MGRC. MGRC will disclose, to GTA, prior to signing of this Agreement, the identity of any and all subcontractors to be used in the performance of this contract. Should the need arise, during the performance of this Agreement, for MGRC to subcontract any services not previously identified, it may do so, but only with the prior approval of GTA, which approval shall not be unreasonably withheld. No such approval will be construed as making GTA a part of, or to, such subcontract, or subjecting GTA to liability of any kind to any subcontractor. No subcontract shall, under any circumstances, relieve MGRC of its liability and obligation under this contract; and despite any such subcontracting GTA shall deal through MGRC, and subcontractors will be dealt with as representatives of MGRC.

MGRC shall not assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under this Contract without the written consent of GTA; provided, however, that assignments to banks, trust companies, or other financial institutions for the purpose of securing bond may be made without the consent of GTA. Assignment or Novation of this Contract shall not be valid unless the Assignment or Novation expressly provides that the assignment of any of MGRC's rights or benefits under the Contract is subject to a prior lien for labor performed, services rendered, and materials, tools, and equipment supplied for the performance of the work under this contract in favor of all persons, firms, or corporations rendering such labor or services or supplying such materials, tools, and equipment.

GTA acknowledges and authorizes MGRC to enter into agreements with each Regional Commission in the State of Georgia for the completion of each regional plan. In the event that a Regional Commission is unable to complete the plan, MGRC will work with GTA to determine actions necessary to complete the regional plan.

SECTION 8 - EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, MGRC agrees as follows:

MGRC will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of MGRC. MGRC agrees to post in conspicuous places, available to employees or applicants for employment, notices setting for the provisions of this nondiscrimination clause.

MGRC also shall not discriminate against any handicapped person in violation of any state or federal law or regulation and shall also post in conspicuous places, available to employees and applicants for employment, notices setting the provisions of this additional nondiscrimination clause. MGRC, in all solicitations or advertisements for employees placed by or on behalf of RC, will state that such contractor is an equal opportunity employer. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this selection. MGRC will otherwise comply with all other applicable provisions of local, State and Federal law.

SECTION 9 - DRUG AND SMOKE-FREE WORKPLACE

MGRC hereby certifies that it will not engage in the unlawful manufacture, sale, distribution, possession, or use of a controlled substance or marijuana during the performance of this Agreement. MGRC may be suspended, terminated, or debarred if it is determined that:

- A. MGRC has made false certification herein above; or
- B. MGRC has violated such certification by failure to carry out the requirements of Official Code of Georgia 50-24-3.

SECTION 10 - CONFIDENTIALITY

To the extent permitted by law, all data and information gathered by MGRC and any of its Subcontractors, and all reports, recommendations, drawings, specifications, photographs, and data shall be treated by MGRC and its Subcontractors as confidential. Once all final deliverables are received and accepted by GTA, all information contained therein will be treated as public information. GTA and MGRC mutually agree not to use each other's name, either expressly or by implication, in any of their advertising or sales materials or public notices without prior written agreement. GTA retains all title and interest to the data and any reports associated with the Agreement.

SECTION 11 - TERMINATION FOR CAUSE

If, through any cause, MGRC shall fail to fulfill in a timely and proper manner its obligation under this agreement, or if MGRC shall violate any of the covenants, agreements, or stipulations of this agreement, GTA shall have the right to terminate this agreement by giving written notice to MGRC of such termination and specifying the effective date thereof, at any time, at least thirty (30) days prior to the effective date of such termination. In that event, all finished or unfinished documents, data, or other materials as described in **Section 1 - Scope of Work**, shall become the property of GTA. The MGRC shall be entitled to receive just and equitable compensation for any satisfactory work completed and any outstanding obligations on such documents. Also, GTA shall be entitled to receive a pro-rated refund of payment for any work not complete at time of termination.

SECTION 12 - TERMINATION FOR THE CONVENIENCE OF MGRC

If through any cause, GTA shall fail to fulfill in a timely and proper manner its obligations under this agreement, or if GTA shall violate any of the covenants, agreements, or stipulations of this agreement, MGRC shall have the right to terminate this agreement by giving written notice to GTA of such termination and specifying the effective date thereof, at any time, at least (30) days prior to the effective date of such termination. In that event, all finished or unfinished documents, data, or other materials as described in **Section 1 - Scope of Work**, shall become the property of GTA. MGRC shall be entitled to receive just and equitable compensation for any satisfactory work completed and any outstanding obligations on such documents. Also, GTA shall be entitled to receive a pro-rated refund of payment for any work not complete at time of termination.

SECTION 13 - LIMITATION OF LIABILITY

If MGRC, its employees or agents, fail for any reason, whether or not negligent, to fulfill the conditions as contained in this contract, GTA'S remedy shall be to receive a refund of all monies paid for the Project.

SECTION 14 - COMPLIANCE WITH LAWS, RULES, AND REGULATIONS

MGRC, its officers, agents, employees, and subcontractors, in the performance of this Agreement shall comply with all applicable statutes and laws of the United States and the State of Georgia, and the applicable rules and regulations of the agencies of the United States and the State of Georgia.

SECTION 15 - CONFORMANCE OF AGREEMENT WITH THE LAW

It is the intent and understanding of the parties to this Agreement that each and every provision of law required to be inserted in this Agreement shall be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is deemed to be inserted herein, and if through mistakes or otherwise, any such provision is not inserted in correct form, then this Agreement shall upon application of either party, be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party.

If this Agreement contains any unlawful provisions, not an essential part of the Agreement and which appears not to have been a controlling or material inducement to the making hereof, the same shall be deemed of no effect, and shall upon the application of either party be stricken from the Agreement without affecting the binding force of the Agreement as it shall remain after omitting such provision. The parties agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

SECTION 16 - ENFORCEMENT

This Agreement and the performance hereof shall be governed by and enforced under the laws of the State of Georgia, and if legal action by either party is necessary for or with respect to the enforcement of any or all of the terms and conditions hereof, then exclusive venue therefore shall lie in Fulton County, Georgia.

SECTION 17 - NOTICES

All written notices required to be given by MGRC to GTA shall be addressed and mailed or delivered to:

**Georgia Technology Authority
Attn:
47 Trinity Avenue S.W.
Atlanta, Georgia 30334**

With a copy to:

**Georgia Technology Authority
Office of General Counsel
47 Trinity Avenue S.W.
Atlanta, Georgia 30334**

All such notices required to be given by GTA to MGRC shall be addressed and mailed or delivered to:

Middle Georgia Regional Commission
Attn: Ralph Nix
175 Emery Highway
Macon, GA 31217

SECTION 18 - SUCCESSORS; ASSIGNMENT

GTA and MGRC respectively bind themselves, their partners, successors, assigns, and legal representatives, to the other with respect to all covenants and agreements herein contained and made. Neither GTA nor MGRC shall, however, assign or transfer any of its interest in or rights or obligations under this Agreement without the prior written consent of the other.

SECTION 19 - EXHIBITS; ENTIRE AGREEMENT; AMENDMENTS

This Agreement represents the entire Agreement between GTA and MGRC and supersedes all prior negotiations, representations, agreements, and understandings, written, or oral, made by either or both with respect to this Agreement and Project. The terms, conditions, and provisions of this Agreement may be modified, amended, supplemented, deleted, or canceled only with the consent of and by prior written instrument duly signed by both GTA and MGRC.

SECTION 20 - REVIEW BY LEGAL REPRESENTATION

All new products, policies, procedures, ordinances, or regulations generated under this contract and/or any revisions or alterations to existing policies, procedures, ordinances, regulations, etc. should be reviewed and approved by legal counsel for GTA prior to adoption by GTA. A letter of opinion from GTA'S legal counsel outlining legal counsel's opinion of the final document and/or any process used to adopt such document(s) is strongly recommended by MGRC, and a copy of such opinion is requested through this contract for MGRC's files. Legal counsel's opinion letter is to be obtained at GTA'S expense. MGRC assumes no liability for subsequent legal action taken against GTA as it relates to this project.

SECTION 21 - AMENDMENTS/MODIFICATIONS

From time to time, GTA and MGRC may mutually consent to changes in the **Section 1 - Scope of Work, Section 3 - Milestones and Project Schedule**, or any other aspect of this agreement. Such changes, including any increases or decreases in the compensation paid to the MGRC, shall be incorporated in written amendments to this agreement and signed by the duly authorized representatives of all parties.

This agreement may be modified only by a formal, written modification signed by authorized representatives of GTA and MGRC. All changes to the **Scope of Work, Milestones and Payment Schedule** and/or any other aspect of this agreement shall be agreed upon and mutually accepted via contract amendments executed by GTA and MGRC.



SECTION 22 - RIGHT TO AUDIT

MGRC agrees to give GTA or the Department of Audits and Accounts, through any authorized representative, the right to audit all records, books, papers, or documents related to the agreement for up to three (3) calendar years after completion of this agreement.

SECTION 23 - ACCEPTANCE OF CONTRACT AND TERMS

This Agreement shall become effective with the signatures of the authorized parties and shall remain in effect until both parties shall agree that the services have been performed. Any revisions to the deadline date for the completion of the work shall be mutually agreed upon in writing by both parties.

IN WITNESS WHEREOF, GTA and MGRC have each caused this Agreement to be signed and sealed in its behalf, by its duly authorized officers or principals, in two (2) original counterparts, each of which counterparts shall be deemed the original Agreement without the need to account for the other and all of which counterparts together shall constitute but one and the same Agreement.

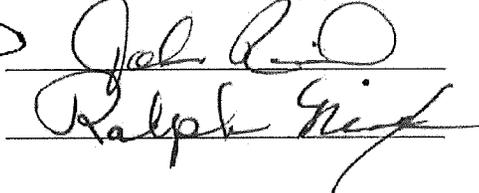
This 6th day of June, 2013.

GEORGIA TECHNOLOGY AUTHORITY



Calvin Rhodes
Executive Director and State Chief
Information Officer

**MIDDLE GEORGIA
REGIONAL COMMISSION**



ATTACHMENT A

SCOPE OF SERVICES

The "scope of services" establishes the specific tasks and products which will be provided by MGRC Regional Commission staff to GTA. Any tasks or products sought by GTA from MGRC which are in addition to those outlined herein must be agreed to in writing by the authorized parties representing their respective agencies, and as referenced in **Section 21 – Amendments/Modifications** of the contract.

Purpose:

To provide staff resources to GTA in executing and managing the Digital Economic Planning Program funded by an ARRA State Broadband Initiative grant. MGRC will provide overall project management, coordination and assistance to the other 11 Georgia Planning Commissions. MGRC will be responsible for the Middle Georgia Digital Economic Planning project and deliverables.

MGRC Responsibilities:

- Responsibility for the 12 planning projects timeline and be the focal point to drive planning activities and milestones for completion in each of the regions
- Sub-contracting with each Regional Commission for the development and completion of the region's digital economic plan.
- Timely payment for deliverables to each Regional Commission.
- Conducting a statewide kick-off meeting of all 12 Regional Commissions and GTA to explain in more detail the project and process.
- Conducting regional Initiation meetings with each Regional Commission at the start of their planning process- this meeting would review in detail the process, establish the frequency / method for MGRC/ GTA to receive updates throughout the planning process.
- Providing technical assistance and support to each Regional Commission on an as-needed basis
- Providing regular and frequent reports to GTA on progress.
- Participate in weekly or bi weekly project update calls with GTA.
- Invoicing GTA for completion of milestones by each Regional Commission.
- Maintaining financial records and accounting to ensure proper handling of funds.
- Provide GTA with quarterly reports of accomplishments for each quarter.
- Provide regional planning toolkit and technical assistance to use the toolkit to each regional commission.
- Provide coordination and assistance with other contracted resources by GTA for regional planning commission staff.
- Provide coordination and assistance with data sources contracted for by GTA for regional planning commission staff.
- Provide assistance to DCA to determine how Digital Economic Planning integrates with comprehensive economic planning.
- Provide GTA with key regional contacts as they are developed by each region.
- Provide GTA with survey and other data collection results from each regional planning process such as Community Anchor Institution broadband connectivity.

Key Tasks:

A. Program Initiation

- a. Schedule program kickoff with GTA and the Regional Commissions to explain and brief all Georgia Planning Commissions on program purposes and requirements
- b. Execute MOU agreements with 11 Regional Commissions
- c. Finalize the 12 planning projects schedules

B. Prepare and distribute the following supporting documents:

- 1) *Guide to Regional Digital Economic Planning* to include the following sections:
 - a) Purpose
 - b) Process and Structure
 - c) Program requirements
 - d) Resource Requirements
 - e) How-to-Guide to Collecting and Analyzing Related Data
 - f) Implementation Process
 - g) Information Resources
 - h) Assistance Resources
 - 2) Execute, manage and assist development of the Twelve (12) *Regional Digital Economic Plans* based upon Georgia Regional Commission boundaries, including the *MGRC Regional Digital Economic Plan*
- C. Provide technical and informational assistance to the eleven Regional Commissions
- D. Provide coordination of GTA and other supporting institutions resources to the Regional Commissions

Interim Products:

- Planning tools and templates
- Draft Planning Guide
- Residential Survey Sample
- Business Survey Sample
- Focus Group Scripts
- Quarterly Reports
- Draft Digital Economic Plans

Final Products:

- MGRC Digital Economic Plan
- Final Eleven (11) additional Regional Plans
- Final project report of accomplishments and lessons learned
- Regional planning team contacts
- Regional stakeholder contacts
- Regional Community Anchor Institution (CAI) broadband connections inventory

ATTACHMENT B

DELIVERABLES AND PAYMENT SCHEDULE

| Deliverable | Description | Payment |
|---|---|----------------|
| Program Initiation | Kickoff, Briefing and information with all Regional Commissions. MOUs with 11 MGRC executed and copied to GTA | \$74,000 |
| Planning Initiation with 4 Regional Commissions Group A | Kickoff Meeting with each Regional Commissions and stakeholders. Provide Regions with supporting documentation, templates and tools for planning. | \$55,500 |
| Data Collection Phase with 4 Regional Commissions Group A | Data Collection for group A MGRCs completed to include: survey data and focus groups data, Workforce data, capital and funding profiles data, broadband profile data, government profiles data, regional demographic profiles | \$55,500 |
| Draft Regional Plans Group A | Draft Plan to include regional SWOT analysis results, regional priorities, Key Industry profiles, broadband supply and demand analysis, workforce supply and demand analysis, capital and funding supply and demand analysis, proposed projects, Implementation plan and requirements | \$55,500 |
| Final Regional Plans Group A | Final Regional Digital Economic plan with GTA review and feedback | \$55,500 |
| Planning Initiation with 4 Regional Commissions Group B | Kickoff Meeting with each Regional Commissions and stakeholders. Provide Regions with supporting documentation, templates and tools for planning. | \$55,500 |
| Data Collection Phase with 4 Regional Commissions Group B | Data Collection for group B MGRCs completed to include: survey data and focus groups data, Workforce data, capital and funding profiles data, broadband profile data, government profiles data, regional demographic profiles | \$55,500 |
| Draft Regional Plans Group B | Draft Plan to include regional SWOT analysis results, regional priorities, Key Industry profiles, broadband supply and demand analysis, workforce supply and demand analysis, capital and funding supply and demand analysis, proposed projects, Implementation plan and requirements | \$55,500 |
| Final Regional Plans Group B | Final Regional Digital Economic plan with GTA review and feedback | \$55,500 |
| Planning Initiation with 4 Regional Commissions Group C | Kickoff Meeting with each Regional Commissions and stakeholders. Provide Regions with supporting documentation, | \$55,500 |

GTA's Vision:

A transparent, integrated enterprise where technology decisions are made with the citizen in mind

Expectations of GTA:

- GTA will meet with MGRC staff as provided within this ATTACHMENT, and as necessary to address unforeseen issues that may arise while implementing this agreement.
- GTA will review and comment on draft plans and documents provided by MGRC staff within a reasonable timeframe as established in ATTACHMENT B.
- GTA will provide staff assistance resources to assist Middle Georgia and the 11 Regional Commissions
- GTA will provide Regional Commissions with broadband service provider contacts.
- GTA will provide Regional Commissions with broadband data products from the broadband data collection project.
- GTA will provide Regional Commissions with external data sets and sources for the purposes of the planning program.

Project Budget:

| Function | Regional Commission | Amount |
|--------------------|------------------------------------|----------|
| Project Management | Middle Georgia Regional Commission | \$65,000 |
| Regional Plan | Northwest | \$60,000 |
| Regional Plan | Georgia Mountains | \$50,000 |
| Regional Plan | Atlanta Regional | \$50,000 |
| Regional Plan | Northeast | \$50,000 |
| Regional Plan | Three Rivers | \$50,000 |
| Regional Plan | River Valley | \$65,000 |
| Regional Plan | Southwest | \$55,000 |
| Regional Plan | Southern | \$75,000 |
| Regional Plan | Middle Georgia | \$50,000 |
| Regional Plan | Heart of Georgia | \$70,000 |
| Regional Plan | Coastal | \$50,000 |
| Regional Plan | Central Savannah | \$50,000 |

04

GTA's Vision:

A transparent, integrated enterprise where technology decisions are made with the citizen in mind

| | | |
|---|---|----------|
| | templates and tools for planning. | |
| Data Collection Phase with 4 Regional Commissions Group C | Data Collection for group C MGRCs completed to include: survey data and focus groups data, Workforce data, capital and funding profiles data, broadband profile data, government profiles data, regional demographic profiles | \$55,500 |
| Draft Regional Plans Group C | Draft Plan to include regional SWOT analysis results, regional priorities, Key Industry profiles, broadband supply and demand analysis, workforce supply and demand analysis, capital and funding supply and demand analysis, proposed projects, implementation plan and requirements | \$55,500 |
| Final Regional Plans Group C | Final Regional Digital Economic plan with GTA review and feedback | \$55,500 |

- MGRC will ensure that 12 Draft Regional Digital Economic Plans that adhere to the standard established through the Planning Guide document.
- MGRC will ensure that 12 Final Regional Digital Economic Plans that adhere to the standard established through the Planning Guide document.

GTA's Vision:

A transparent, integrated enterprise where technology decisions are made with the citizen in mind