

Georgia Tech Research Corporation
Fixed Price
Enterprise Innovation Institute
Service Agreement
Project # 00214

THIS AGREEMENT is made by and between GEORGIA TECH RESEARCH CORPORATION, a Georgia corporation, having principal offices at the Research Administration Building, Georgia Institute of Technology, Atlanta, Georgia, 30332-0420 ("GTRC") and City of Powder Springs, a corporation organized under the laws of the State of Georgia, having an office and place of business at:

4484 Marietta St.
 Powder Springs, Georgia 30127, ("You")

Section 1. Term and Scope of Work.

1.1 GTRC will perform the Services, described in **Exhibit A** (which is incorporated in this Agreement by reference), on **05/01/2023** ("Effective Date") and will continue until **09/30/2023**. The Services will be performed by Staff Members (employees, independent contractors, subcontractors, consultants and student assistants) of the Georgia Institute of Technology ("GIT"), a unit of the University System of Georgia.

Section 2. Payment Fixed Price Amount

2.1 You agree to pay GTRC, **\$17,830.00, Seventeen Thousand Eight Hundred Thirty dollars**, "Fixed Price Amount" for the agreed upon Services.

2.2 GTRC will submit its invoices to you and payment in full is due to GTRC within fifteen (15) days of receipt of invoice. If payment is not received within thirty (30) days, you will be subject to a late payment penalty of 1 1/2% per month or fraction thereof until payment is received by GTRC. You will make payments to:

Georgia Tech Research Corporation,
 P. O. Box 100117,
 Atlanta, Georgia 30384.

2.3 GTRC may choose to discontinue performance of the Services if you fail to pay any GTRC invoice within the time specified in Paragraph 2.2.

Section 3. Reports.

3.1 GTRC will provide you a final report summarizing the results of the Services as well as other reports as specified in Exhibit A.

Section 4. Publicity.

4.1 Each of us agrees not to authorize or commission the publication of any promotional materials containing any reference to GTRC or GIT without prior written approval from them. GTRC and GIT may, however, include your name in published listings of research sponsors. The provisions of this Section are not intended to preclude you from stating that GIT performed evaluations for you and publishing the evaluation data that GIT delivered to you. The provisions of this Section will survive any termination of this Agreement.

Section 5. Intellectual Property.

5.1 The Parties do not anticipate that any intellectual property will result from the work contemplated under this Agreement as described in Exhibit A. Should any intellectual property be generated during the course of the services the following terms shall apply:

- a. You will receive title to any data or test results generated. Title to all other intellectual property including, without limitation, any inventions and discoveries conceived or first reduced to practice, all computer software, works, and material developed in the course of performance of the Services, whether or not protectable by patent, trade secret or copyright will reside in GTRC.
- b. Notwithstanding any other provision of this Agreement to the contrary, GTRC reserves an irrevocable, nonexclusive, royalty-free, nontransferable license to make and use the intellectual property assigned hereunder for educational and research and development activities practiced by GTRC and GIT.

Section 6. Publication.

6.1 GTRC and GIT may catalog and place reports of the Services in the GIT Library, and they may issue publications based on the Services and use any result not proprietary to you in their research and education programs. GTRC will give you an opportunity to review any report or publication, will not include any of your proprietary information in the report, and will upon your request withhold publication for up to one year.

Section 7. Indemnify.

7.1 To the extent allowed by law, you agree to indemnify and hold harmless GTRC, the Board of Regents of the University System of Georgia, and their employees, officers, board members and agents from and against all claims, demands, causes of action, suits, liabilities, damages, costs, fees, expenses or losses arising out of or resulting from your breach of any provision under this Agreement and from any and all use by you or your customers of the results of such research and/or intellectual property.

Section 8. Disclaimer.

8.1 GTRC AND GIT DISCLAIM ANY AND ALL WARRANTIES BOTH EXPRESS AND IMPLIED WITH RESPECT TO THE SERVICES TO BE PERFORMED HEREUNDER AND ANY DELIVERABLES RESULTING THEREFROM, INCLUDING THEIR CONDITION, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS THEREIN, AND THEIR MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE. YOU ARE SOLELY RESPONSIBLE FOR DETERMINING WHETHER THE DELIVERABLES AND/OR ADVICE RENDERED HEREUNDER SUIT YOUR NEEDS AND FOR ANY RESULTS OBTAINED AS A CONSEQUENCE OF THE USE OF ANY SUCH ADVICE AND/OR DELIVERABLES.

Section 9. Limitation of Liability.

9.1 The cumulative liability of GTRC to you for all claims, demands or actions arising out of or relating to this Agreement, the services to be performed hereunder and any deliverables resulting therefrom, will not exceed the total amount paid to GTRC hereunder during the twelve (12) months immediately preceding such claim, demand or action. Without limiting the foregoing, in no event will GTRC be liable for any business expense, machine downtime, loss of profits, and incidental, special, exemplary or consequential damages, or any claims or demands brought against you or your customers even if GTRC has been advised of the possibility of such claims or demands. The foregoing limitations of liability are intended to survive any termination of this Agreement and will apply without regard to any other provision of this Agreement which may have been breached or have been proven ineffective.

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Section 10. Termination.

10.1 Either of us may terminate this Agreement for any reason with thirty (30) days written notice to the other. You will pay GTRC any costs which have accrued or been encumbered up to the actual date of termination under this Section and you will not be relieved of the obligation to pay those costs because of a termination under this Section.

Section 11. Miscellaneous.

11.1 All notices and other communication given under this Agreement will be effective five (5) days following deposit in the United States mail, postage prepaid and addressed to the parties at their respective addresses set forth below unless by a previous notice a different person or address has been designated.

To: GTRC for administrative matters:

Office of Industry Engagement
Industry Collaborations
Georgia Institute of Technology
926 Dalney St N.W.
Atlanta, GA 30332-0415
Attn: Tara Barker

To: City of Powder Springs for administrative matters:

Eric Meyer
4484 Marietta St.
Powder Springs, Georgia 30127
(404) 839-1102
emeyer@cityofpowdersprings.org

To GTRC for technical matters:

Georgia Tech Research Corporation
Enterprise Innovation Institute
Georgia Institute of Technology
75 Fifth Street, N.W., Suite 300
Atlanta, Georgia 30308
Attn: Alfie Meek

To: City of Powder Springs for technical matters:

Eric Meyer
4484 Marietta St.
Powder Springs, Georgia 30127
emeyer@cityofpowdersprings.org

11.2 We are and will remain independent contractors and nothing herein will be construed to create a partnership, agency or joint venture between us. Each of us will be responsible for wages, hours and conditions of employment of our respective personnel during the term of, and under, this Agreement.

11.3 This Agreement will be governed by the laws of the State of Georgia.

11.4 No waiver by either of us of any breach of any provision hereof will constitute a waiver of any other breach of that provision or of any other provision hereof.

11.5 This Agreement sets forth the entire agreement and understanding between us as to the Services and merges all prior discussions between us; and neither of us will be bound by any conditions, definitions, warranties, understandings or representations with respect to the Services other than as expressly provided herein. This Agreement may not be modified or altered except by a written document executed by authorized officers of both of us. No provision contained in any standard form document issued by you, including but not limited to any purchase order or confirmation order, will be applicable, even if signed by both of us, unless we also execute a separate document expressly modifying this agreement to include such provisions as set forth above.

IN WITNESS WHEREOF, this Agreement has been duly executed by our duly authorized officers on the day and year set forth below.

GEORGIA TECH RESEARCH CORPORATION

By: _____

Date: _____

By: _____

Date: _____

City of Powder Springs

By: 

Typed Name: Albert Thurman

Title: Mayor

Date: 4/16/23