



SANDY SPRINGS™
GEORGIA

REQUEST FOR PROPOSAL

RFP # 17-059

On-Call Design Services for Transportation Engineering Projects

City of Sandy Springs
7840 Roswell Road Suite 500
Sandy Springs, GA 30350

Responses are due:

May 10, 2017, 2:00 PM EST

and should be delivered to:

City of Sandy Springs
Purchasing Office
7840 Roswell Road Suite 500
Sandy Springs, GA 30350

in hard copy only; electronic or fax Responses will not be accepted.
Responses received after the deadline or at any other locations will not be accepted.

Deadline for questions is 5:00 p.m., Wednesday, April 26, 2017. Questions received after this date and time may not be answered.

**Questions must be directed in writing (email) to the
City of Sandy Springs Purchasing Manager, Nesby Ingram,
via e-mail to:**

ningram@sandyspringsga.gov

RESPONSE SIGNATURE AND CERTIFICATION

I certify that this Response is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Response ("Offeror") for the same materials, supplies, equipment, or services and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of the Response and certify that I am authorized to sign this Response for Offeror. I further certify that the provisions of O.C.G.A. § 45-10-20, et seq. have not been violated and will not be violated in any respect.

Authorized Signature for Offeror: _____

Date: _____

Print/Type Name: _____

Print/Type Offeror Name Here: _____

CORPORATE CERTIFICATE

I, _____, certify that I am the Secretary of the company named as Offeror in the foregoing Response; that _____, who signed said Response in behalf of the Offeror, was then (title)_____ of said company; that said Response was duly signed for and in behalf of said company by authority of its Board of Directors, and is within the scope of its corporate powers; that said company is organized under the laws of the State of Georgia.

This _____ day of _____, 2017.

(Signature)

(Seal)

OFFEROR'S RFP CHECKLIST

Critical Things to Keep in Mind When Responding to an RFP # 17-059 for the City of Sandy Springs

1. _____ **Read the entire document.** Note critical items such as: supplies/services required; submittal dates; number of copies required for submittal; contract requirements, if any (e.g. bonding and insurance requirements).
2. _____ **Note the Purchasing Manager's name, address, and e-mail address.** This is the only person you are allowed to communicate with regarding the RFP and is an excellent source of information.
3. _____ **Take advantage of the "question and answer" period.** Submit your questions to the Purchasing Manager by the due date listed on the cover page and in the *Schedule of Events* and view the answers given in the formal "addenda" issued for the RFP. All addenda issued for an RFP will be distributed by e-mail to RFP participants.
4. _____ **Follow the format required in the RFP** when preparing an RFP Response. Provide point-by-point responses to all sections in a clear and concise manner.
5. _____ **Provide complete answers/descriptions.** Read and answer **all** questions and requirements. Don't assume the City will know what your company's capabilities are or what items/services you can provide, even if you have previously contracted with the City. Responses are evaluated based solely on the information and materials provided in response to the RFP.
6. _____ **Use the forms provided** with the RFP, if any.
7. _____ **Check the City's website for RFP addenda.** Before submitting your Response, check the City's website at <http://www.sandyspringsga.gov> to see whether any addenda were issued for the RFP # 17-059. If so, you must submit a signed cover sheet for each addendum issued along with your Response.
8. _____ **Review the RFP document again** to make sure that you have addressed all requirements. Your original Response and the requested copies must be identical and complete. The copies are provided to individuals evaluating Responses and will be used to rank your submittal.
9. _____ **Submit your Response on time.** Note all the dates and times listed in the *Schedule of Events* and within the document, and be sure to submit all required items on time. Late Responses will not be accepted.

This checklist is provided for assistance only and should not be submitted with your Response.

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CITY OF SANDY SPRINGS
Request for Proposals # RFP # 17-059

On-Call Design Services for Transportation Engineering Projects

SECTION 1: BACKGROUND

A. Purpose

The City of Sandy Springs (“City”) is seeking responses from engineering consulting firms with transportation engineering design and related experience for the development of plans for transportation improvements at selected intersections for the Public Works Department. Design services which may be utilized include transportation infrastructure projects, database preparation, and environmental resources. The consultant shall provide design services and develop engineering plans as requested by the City of Sandy Springs to provide improvements to City intersections and roadways. The project focus will be to provide for local intersection and traffic operations upgrades at intersections included in the TSPLOST Intersection Efficiency Improvements list and also in the Intersection Improvement Program (IIP). These projects will provide reductions in traffic delay and will improve mobility and safety. **It is the City’s intention to enter into this on-call services agreement with multiple firms and award projects individually on an as-required basis.** Pursuant to this RFP and any subsequent contract(s) awarded Sandy Springs anticipates issuing Request for Quotation (RFQ) for performance of services on specific projects to one of more Consultants. Each RFQ will specify a detailed scope of work and deliverables for a project.

Contracts awarded pursuant to this RFP are indefinite quantity indefinite amount. Sandy Springs anticipates multiple awards. No awarded consultant is guaranteed any amount of work as the result of an award.

The **Prime Consultant MUST** be prequalified by GDOT in the following area classes listed:

Number	Area Class
1.10	Traffic Analysis
3.01	Rural Roadway Design
3.02	Urban Roadway Design
3.06	Traffic Operations Studies
3.07	Traffic Operations Design
3.09	Traffic Control Systems Analysis, Design and Implementation
3.10	Utility Coordination
8.01	Construction Engineering
9.01	Erosion, Sedimentation and Pollution Control Plan (ESPCCP) Preparation

The **Team** (either Prime Consultant and/or one or more of their sub consultant team members **MUST** be prequalified by GDOT in the following area classes:

Number	Area Class
1.10	Traffic Analysis
3.01	Rural Roadway Design
3.02	Urban Roadway Design
3.06	Traffic Operations Studies

3.07	Traffic Operations Design
3.09	Traffic Control Systems Analysis, Design and Implementation
3.10	Utility Coordination
3.12	Hydraulic and Hydrological Studies (Roadway)
3.13	Bicycle and Pedestrian Facility Design
3.15	Highway and Outdoor Lighting
5.01	Land Surveying
5.02	Engineering Surveying
5.04	Aerial Photography
5.08	Overhead/Subsurface Utility Engineering (SUE)
6.01(a)	Soil Survey Studies
6.01(b)	Geological and Geophysical Studies
6.02	Bridge Foundation Studies
6.03	Hydraulic and Hydrologic Studies (Soils & Foundation)
6.04(a)	Laboratory Testing of Roadway Construction Materials
6.04(b)	Field Testing of Roadway Construction Materials
6.05	Hazardous Waste Site Assessment Studies
8.01	Construction Engineering
9.01	Erosion, Sedimentation and Pollution Control Plan (ESPCP) Preparation

B. General Information About the City

Located in Atlanta's dynamic metro north and less than an hour from the world's busiest airport, Sandy Springs is the metro area's second largest city and is the sixth largest city in the State of Georgia. The City balances the best of modern southern living: high-rise towers; riding stables; world-class medical centers; national river corridor; international consulates; and neighborhoods that resemble botanical gardens.

In June 2005, residents overwhelmingly voted for incorporation; the first new city in Georgia in fifty (50) years. The City utilizes a public-private partnership model for operations. Aside from public safety (police and fire) and the City Manager's executive staff, general City services are provided by contractors. The success of the privatization model in Sandy Springs continues to attract attention from cities around the U.S. as well as around the globe.

The City's population was estimated at 99,419 by the 2012 Census. Daytime population swells to more than 200,000 due to the heavy concentration of businesses located in the City, including UPS, Newell Rubbermaid, First Data, AirWatch, Cox Enterprises, and Intercontinental Exchange (corporate parent of the New York Stock Exchange), and the recent announcement of Mercedes relocation of its corporate headquarters to Sandy Springs. Two of the most traveled arteries in the metro area, I-285 and Georgia 400, cross Sandy Springs, and the City is home to three MARTA rail stations.

C. Project Background

The City of Sandy Springs has developed a TSPLOST Traffic Efficiency Improvement project list as well as similar scope Intersection Improvement Program (IIP). The City of Sandy Springs TSPLOST Traffic Efficiency Improvement Program and IIP include the analysis and design of traffic signals, roundabouts, turn lane improvements, intersection realignments, and traffic signal system upgrades. It is important to note that time is of the essence in the design and completion of these projects; therefore, the project contract template has been provided for review. It should be noted that the template describes the contract performance requirements and is non-negotiable. Offerors that find the terms and conditions of this contract unacceptable should not

respond to this Request for Proposal.

SECTION 2: SCOPE OF SERVICE

Such services and work orders as part of these on-call projects will consist of, but not be limited to the following:

- Evaluation of intersection safety and/or operational efficiency
- Evaluation of the need for intersection improvements
- Evaluation of the need for lane additions
- Evaluation of general safety improvements (to include vertical and horizontal alignments)
- Evaluation of the need for installation of traffic signals
- Evaluation of the need for traffic calming studies
- Evaluation and engineering design of guardrail
- Recommendations of improvements

The City of Sandy Springs is seeking proposals for consideration to accomplish the following tasks for each project:

Base Data Coordination

A current and accurate ground run (two [2] foot contour interval) topographic survey is required and it must be provided in hard copy as well as a digital copy i.e. a CAD file. Survey shall include local issuing authority requirements for setbacks, zoning, buffers, surrounding land use and zonings, and Fulton County GIS benchmark reference.

The Consultant should plan to provide the City with geotechnical exploration report findings, if necessary. The City will secure off-site easements and construction encroachment agreements for off-site construction, if necessary.

The consultant will collect all necessary traffic volume and turning movement data required for the projects.

The City will provide additional base data (GIS grade) information as identified during the design process and as the project progresses. This additional base data may be required due to submittal requirements or findings made during the design process.

Consultant will coordinate and incorporate utilities data at a SUE Level B standard at minimum.

Utility Design Coordination

Consultant will coordinate with all applicable utility companies to obtain details of facility locations and identify any conflicts and incorporate necessary utility relocations/redesigns into the plans. This effort will include attending and participating in the City's monthly utility coordination meeting, distributing design files to utility providers, necessary follow up (log of correspondence) and meetings with utility providers and plan edits.

Schematic Drawings

Consultant will prepare schematic concept/site plans as necessary for the City's review and approval. Approval of schematic drawings with any associated redline comments is required (in writing) prior to commencement of construction documents.

Traffic analysis models (Synchro, Sidro, VISSIM, etc.) and reports shall be provided for all schematic site plans. A summary of the intersection delay and lane-group delay should also be included for each schematic site plan.

Construction Drawings

Consultant will prepare construction drawings for site work related items based on approved preliminary design. These drawings may be combined as determined by Consultant. These site work construction drawings will consist of:

- A. Demolition & Removal Plan addressing existing improvements that need removal, replacement or adjustment for new construction.
- B. Layout, Paving & Signage Plan that will include layout of curbs, sidewalks, required ADA access and related site improvements.
- C. Grading & Drainage Plan to include sight/stopping distance profiles and that will include proposed grading for the site improvements, existing and proposed contours, spot elevations, storm drainage system, water quality system, and general notes.
- D. Erosion, Sedimentation, and Pollution Control Plan(s) that will include Georgia Soil and Water Conservation Commission required checklist information pursuant to disturbed area for the project.
- E. Site Work Construction Details for related site improvements (City of Sandy Springs and Georgia DOT standards.)

Public Involvement

Consultant will provide a minimum of two public meetings:

- A. One concept meeting
- B. One preferred alternative meeting

Consultant may also provide one fact-finding meeting (this is optional)

Consultant will prepare a presentation to the City council during a work session.

Consultant will attend status meetings with Public Works every two weeks, with teleconference on an as needed basis.

SECTION 3: SUBMISSION OF RESPONSE

Economy of Presentation

Each proposal shall be prepared simply and economically, providing straight-forward, concise delineation of Offeror's capabilities to satisfy the requirements of this RFP. Emphasis on each proposal must be on completeness and clarity of content. To expedite the evaluation of proposals, it is essential that Offerors follow the format and instructions contained herein.

Required Organization of Offeror Proposal:

- The content of the Technical Proposal must be organized as follows: Address each paragraph of the proposal by inserting requested information following each RFP paragraph.
 - The simplest method for meeting this requirement is to copy the Table of Contents, and if no information is requested, acknowledge that section of the proposal by stating "Read and understood", "Read and will comply" or other appropriate acknowledgement next to each section outlined in the Table of Contents. This method serves to confirm for the City that offerors have read all the information included in the proposal.

- Where information is requested, provide a succinct, well written response with complete and thorough answers.
- Number the responses so they are keyed to the paragraph of the RFP that the response addresses.
- If the Offeror cross references or references supplemental materials at enclosures or appendices or annexes to the proposal response, be sure that this information is numbered in the supplemental materials showing exactly what paragraph in the RFP the supplemental material is addressing.
- **The Proposed Professional Services Pricing Schedule to be submitted separately.**
 - Be careful not to qualify the Proposal with “If...Then” statements. A qualified cost proposal response will be rejected and your proposal will not be further considered.

Submission of Proposal:

Proposal must be submitted in two parts: a Technical Proposal and Professional Services Pricing Schedule. The proposal packages should be sealed in separate envelopes and identified as follows:

Technical Proposal/Cost Proposal (as applicable)

RFP Number: 17-059, On-Call Design Services for Transportation Engineering Projects:

Proposal Opening Date and Time: May 10th, 2017; 2:00 PM EST

All proposals are due at the location specified no later than the date and time specified herein.

Technical Proposal

The Technical Proposal must include detailed information relative to how you propose to accomplish the tasks described in the Scope of Services (Section 2) contained in this document. The Technical Proposal **MUST** not include any cost figures. An original and three (3) copies of the Technical Proposal are required. The Proposal Letter, included as page two of this package, must be included in this part and must be signed by a person authorized to legally bind the company. **FAILURE TO INCLUDE THIS SIGNED PROPOSAL LETTER WILL RESULT IN THE REJECTION OF YOUR RESPONSE.**

- **Fee Schedule**

Important – Include the Fee Schedule in a separate sealed envelope identified as Fee Schedule RFP Number: 17-059, On-Call Design Services for Transportation Engineering Projects with information as requested herein relative to the costs proposed to accomplish the proposed project.

Evaluation Criteria and Process

Review of Proposals

All proposals received will be reviewed by the Purchasing Manager to ensure that all administrative requirements of the RFP package have been met by the offerors. Each proposal will be reviewed to ensure that the offeror submitted a separately packaged cost proposal and technical proposal, that only technical information is included in the technical proposal and only cost information is included in the cost proposal, and that all documents requiring a signature have been signed. Failure to meet these requirements may be cause for rejection of a proposal. All technical proposals that meet the administrative requirements will then be turned over to the technical evaluation and cost proposals team members for further evaluation.

Evaluation Committee

Offeror's submissions will be scored and ranked based upon demonstrated knowledge and understanding of the evaluation criteria provided below. The score of the proposal will total a maximum of 100 points. The City will use a proposal evaluation panel to review and rank the responsiveness and reasonableness of each proposal.

Technical Factors

1. Responsiveness of the proposal clearly states an understanding of the work to be performed, including making all required statements and affirmations. The following elements will be considered:
 - Appropriateness and adequacy of proposed procedures.
 - Necessity of procedures
 - Reasonableness of time estimates
 - Appropriateness of assigned staff levels
 - Timeliness of projected completions
2. Technical experience of staff and overall team
3. Qualifications of staff and overall team, including recent pertinent continuing education
4. Size and structure of firm/joint venture/etc.
5. Prior experience with the firm with emphasis on report and work paper quality and track record of meeting agreed upon delivery dates.
6. References

Cost Factors

Although cost is a significant factor, it will not be the dominant factor. Any proposal which does not include all the required statements and affirmations called for in this RFP may be rejected as not being responsive. **The Fee Schedule provided in Exhibit G shall be included and used as the cost proposal without changes to the format or schedule. Failure to submit this may deem proposers nonresponsive.**

The award will be made to the firm(s) making the most favorable proposal to the City of Sandy Springs taking into account all the above criteria.

Each Response to this RFP shall address the elements described in the Scope of Work (Section 2) and Contents of Response (Section 3). The Offeror shall describe its approach and experience in each area.

Responses shall be as succinct as possible while completely providing all requested information. All Responses shall be printed on single sided 8-1/2" X 11" in size or folded to such a size. Font shall be 11 point or larger. Responses should be kept to a maximum of fifteen (15) one-sided

pages not including required forms or certifications, resumes or the proposal letter.

All Responses must be in writing delivered to:

Purchasing Manager
City of Sandy Springs
Purchasing Office
7840 Roswell Rd. Building 500
Sandy Springs, GA 30350

All Responses must be presented in a sealed opaque package with the following language clearly marked on the outside of the package:

“RFP 17-059 - On-Call Design Services for Transportation Engineering Projects”

The name and address of the Offeror must also clearly be marked on the outside of the package.

Please include one (1) original Response clearly marked “Original”, ten (10) hard copies, and one digital copy in PDF format saved to a CD or USB flash drive.

Submittals are due no later than **May 10th, 2017; 2:00 PM EST**

Submissions received after this date and time or at any other location cannot be accepted or considered.

The City is not responsible for delays caused by traffic, inclement weather or any other reason. The City is not responsible for late deliveries by couriers, the USPS or package express companies (UPS, Fed Ex, etc.) It is the sole responsibility of the Offeror to submit its Response before the deadline.

Electronic and facsimile submittals will not be accepted.

SECTION 4: PRE SUBMITTAL INQUIRIES

A question and answer period has been established. All inquiries must be delivered in writing (e-mail to ningram@sandyspringsga.gov) no later than **5:00 p.m., Wednesday, April 26, 2017**. After this date, questions may not be answered. Requests for information and questions should be submitted to:

City of Sandy Springs
Attn: Nesby Ingram, Purchasing Manager
ningram@sandyspringsga.gov

Responses to questions and any additional information relating to this RFP will be posted to the City’s website <http://www.sandyspringsga.org/business/doing-business-with-the-city/bidding-opportunities>. Informal verbal communications, or communications by any person other than the Purchasing Manager named in this RFP shall be considered unofficial and the City shall have no responsibility to verify any information that is not contained in this RFP or future addenda.

Please check the website regularly for updates and addenda.

SECTION 5: GENERAL EVALUATION PROCESS AND CRITERIA

A. General Information

The RFP will enable the City to gather additional information and identify one or more qualified firms to perform the services described in the Scope of Work. The City will conduct a comprehensive, fair and impartial evaluation of all Responses received. An evaluation panel will be established by the City to evaluate the Responses ("Evaluation Committee"). The Evaluation Committee may invite the most qualified Offerors to interview; however, the City retains the right to select only one Offeror. The City may also determine that no qualified Responses have been received and reject all Responses. Contracts awarded pursuant to this RFP are indefinite quantity indefinite amount. Sandy Springs anticipates multiple awards. No awarded consultant is guaranteed any amount of work as the result of an award

B. Interviews

At the City's discretion, selected Offerors may be interviewed and re-evaluated based upon the criteria set out in the RFP, or other criteria to be determined by the Evaluation Panel (i.e. unique qualities, methodologies, or approaches taken to differentiate from other Offerors). Selected Offerors may be asked to provide additional information to the Evaluation Panel regarding demonstrated competence and qualifications, feasibility of implementing the Project as proposed, ability to meet schedules, costing methodology, or other factors as appropriate.

Any information received by the Evaluation Committee subsequent to the Offeror's Response will be used to further evaluate the selected Offerors to determine a rank-order. Final approval of a selected Offeror is subject to the City's Purchasing Policies.

C. Past Performance – References

The City, at its discretion, may review past performance of the Offeror. Exhibit E of this RFP is a References Form. Offeror shall include three (3) to five (5) reference projects from the past three (3) to five (5) years. Projects shall be a similar scope to the Project.

References should include the following: name of the organization, contact information, description of the project, brief summary of services provided and period of performance. The sample reference letter shall be prepared on the Offeror's letterhead, addressed to the contact at the reference, signed by the Offeror and included with the submittal.

D. Negotiation and Best and Final Offer (as applicable)

1. If the City deems it is in its best interest to retain the services of one or more Offerors, the City reserves the right to negotiate a revised scope and or fees. Negotiations will encompass all phases of work, including but not limited to: hourly rates, fees for services, markups for overhead and profit on subcontractors, a "not to exceed" contract amount, as well as any other items the City deems appropriate.

2. If negotiations are successful, the City and the highest ranking Offeror will enter into an agreement to develop the services as outlined in this RFP. If an acceptable agreement cannot be reached between the City and the highest ranking Offeror, the City may choose to negotiate with other Offeror(s).

3. Qualified firms submitting Responses will be required to submit financial statements for a minimum of three recording periods prior to contract award.

4. Separate meetings with more than one Offeror may be conducted during the same time frame; however, negotiation sessions with an Offeror will not be held in the presence of another Offeror.

5. Offerors submitting Responses should be aware that the Evaluation Panel has sole discretion to determine what constitutes the “best value and offer” for the City. Consequently, Offerors are urged to submit best possible terms in their original submittal.

E. Specific Evaluation Criteria

Evaluation Criteria		Description	Points
1.	Firm Experience	Effective and substantive (relative to key objectives) experience of the firm in the provision of similar services within the categories under consideration, with emphasis on local experience.	20
2.	Experience of Key Personnel	Relevant qualifications, experience and availability of proposed key personnel in the categories under consideration, with emphasis on staff location.	25
3	Understanding and Approach	Description of consultant’s understanding and approach to projects in the categories under consideration, including innovative delivery methods and processes, following appropriate regulations/requirements, identification of issues, and resolution of conflicts.	30
1.	Quality Assurance/Quality Control and Technology	Description of firm’s quality assurance / quality control processes to ensure accuracy and integrity of services in the timely delivery of projects while avoiding mistakes/obstacles.	10
5.	References	Evaluation of Proposer’s references as to relevance, satisfaction with services and comments on key personnel.	5
6.	Fee Evaluation	Evaluation of fee schedule	10
Total			100

SECTION 6: TERMS AND CONDITIONS

All Responses and supporting materials as well as correspondence relating to this RFP become property of the City when received. Any proprietary information contained in the Response should be so indicated; however, a general indication that the entire contents, or a major portion, of the Response is proprietary will not be honored. The following terms and conditions shall also apply:

A. All applicable Federal and State of Georgia laws, City of Sandy Springs and Fulton County ordinances, licenses and regulations of all agencies having jurisdiction shall apply to Offerors throughout and are incorporated herein.

B. Professionals requiring special licenses must be licensed in the State of Georgia, and shall be responsible for those portions of the work as may be required by law.

C. No Response shall be accepted from, and no contract will be awarded to, any person, firm, or corporation that (i) is in arrears to the City with respect to any debt, (ii) is in default with respect to any obligation to the City, or (iii) is deemed irresponsible or unreliable by the City.

D. The City shall be able to request of the Offerors satisfactory evidence that they have the necessary financial resources to accomplish the requirements of the RFP.

E. From the date this RFP is issued until a firm is selected, Offerors are not allowed to communicate with any staff or elected officials of the City regarding this procurement, except at the direction of Nesby Ingram, Purchasing Manager for the City and procurement agent in charge of this solicitation. Any unauthorized contact may disqualify the Offeror from further consideration. Contact information for the single point of contact is as follows:

Purchasing Manager: Nesby Ingram
Address: 7840 Roswell Road, Building 500
Sandy Springs, GA 30350
E-mail Address: ningram@sandyspringsga.gov

F. The costs for developing and delivering Responses to this RFP and any subsequent presentations of the Response as requested by the City are entirely the responsibility of the Offeror. The City is not liable for any expense incurred by the Offeror in the preparation and presentation of its Response.

G. While the City has every intention to make an award as a result of this solicitation, issuance of the RFP in no way constitutes a commitment by the City to award and execute a contract. Upon a determination such actions would be in its best interest, the City, in its sole discretion, reserves the right to:

1. Cancel or terminate this RFP at any time. A notice of cancellation will be issued. If the RFP is cancelled, the City will not reimburse any Offeror for preparation of its Response. Responses may be returned upon request if unopened;

2. Reject any or all Responses received, make a contract award based directly on the Responses received in the best interest of the City, in its sole discretion, or enter into further discussions with one or more Offerors;

3. Waive and/or amend any undesirable, inconsequential, or inconsistent provisions/specifications of this RFP which would not have significant impact on any Response;

4. Make partial award or no award if it is in the best interest of the City to do so; and

5. Terminate any contract if the City determines adequate funds are not available.

H. The contract with the successful Offerors will be for an initial period beginning on the date of execution of the agreement and expiring on June 30, 2018. In addition, the City reserves the right to extend the contract for four (4) additional one (1) year terms.

SECTION 7: MODEL CONTRACT

The form of contract ("Model Contract") the City intends to execute with the selected Offeror is included in this RFP as Exhibit H. Offerors are urged to read this Model Contract carefully prior to submitting a Response.

In general the City is unable to negotiate or revise contract provisions. If an Offeror believes certain contract provisions are out of date, not applicable or place an undue burden or cost on the Offeror or the City, the Offeror must address these concerns in writing during the question and answer period. The Purchasing Manager will review and determine the appropriate response. If the City determines a change is warranted; an addendum will be posted to this RFP. If a firm is unwilling to execute the Model Contract, whether modified by addendum or not, a Response should not be submitted.

The City may deem any Response containing contract changes or exceptions non-responsive and reject the Response.

This RFP document, together with its addenda, amendments, attachments, modifications, Offeror's Response, including any amendments, a "best and final offer," and any clarification question responses, when executed, becomes part of the contract between the parties. The City does not intend to accept alternate terms and conditions to the Model Contract. All questions are due in writing no later than the date stated on the first page of this RFP. Questions received after this date and time may not be answered.

Prior to award, the apparent selected Offeror may be required to enter into discussions with the City to resolve any contractual differences before an award is made. These discussions shall be finalized and all exceptions resolved within one (1) week of notification; if not, the Response may be rejected and discussions initiated with the second highest scoring Offeror.

The selected Offeror shall not begin performance of services requested by this RFP prior to the execution of a formal written contract (based on the Model Contract) by the City and Offeror. Any Offeror beginning performance prior to the execution of a contract shall be deemed to be proceeding at Offeror's risk, and shall not be entitled to any compensation for such performance. In addition, the City reserves the right to withdraw or cancel an award.

The City may, by written notice to the selected Offeror, terminate any resulting contract without cause. The City must give notice of termination to the selected Offeror at least thirty (30) days prior to the effective date of termination.

SECTION 8: EXHIBITS

- EXHIBIT A: CERTIFICATION OF CONSULTANT – DRUG-FREE WORKPLACE
- EXHIBIT B: CONTRACTOR AFFIDAVIT UNDER O.C.G.A. § 13-10-91(B)(1)
- EXHIBIT C: AFFIDAVIT VERIFYING STATUS FOR CITY PUBLIC BENEFIT APPLICATION
- EXHIBIT D: CERTIFICATION OF CONTRACTOR - GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT
- EXHIBIT E: REFERENCE FORM
- EXHIBIT F: INSURANCE REQUIREMENTS
- EXHIBIT G: FEE SCHEDULE
- EXHIBIT H: MODEL CONTRACT

EXHIBIT A
CERTIFICATION OF CONSULTANT
DRUG-FREE WORKPLACE

I hereby certify that I am a principle and duly authorized representative of _____ (“Consultant”), whose address is _____ and I further certify that:

- (1) The provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the “Drug-Free Workplace Act” have been complied with in full; and
- (2) A drug-free workplace will be provided for Consultant’s employees during the performance of the Agreement; and
- (3) Each subcontractor hired by Consultant shall be required to ensure that the subcontractor’s employees are provided a drug-free workplace. Consultant shall secure from that subcontractor the following written certification: “As part of the subcontracting agreement with Consultant, _____ certifies to Consultant that a drug-free workplace will be provided for the subcontractor’s employees during the performance of this Agreement pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated, Section 50-24-3”; and
- (4) The undersigned will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Agreement.

CONSULTANT:

Date: _____

Signature: _____

Title: _____

EXHIBIT B
CONTRACTOR AFFIDAVIT UNDER O.C.G.A. § 13-10-91(B)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of the City of Sandy Springs has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor

Name of Project

Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ in _____ (city), _____ (state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS
THE _____ DAY OF _____.

NOTARY PUBLIC

My Commission Expires: _____

EXHIBIT C
AFFIDAVIT VERIFYING STATUS FOR CITY PUBLIC BENEFIT APPLICATION

By executing this affidavit under oath, as an applicant for a City of Sandy Springs, Georgia Business License or Occupation Tax Certificate, Alcohol License, Taxi Permit, execution of contract or other public benefit as referenced in O.C.G.A. Section 50-36-1, I am stating the following with respect to my application for a City of Sandy Springs license/permit and/or contract for

[Name of natural person applying on behalf of individual, business, corporation, partnership, or other private entity]

1) _____ I am a United States citizen

OR

2) _____ I am a legal permanent resident 18 years of age or older or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States.*

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of Code Section 16-10-20 of the Official Code of Georgia.

Signature of Applicant: _____ Date: _____

Printed Name: _____

*Alien Registration number for non-citizens _____

****PLEASE INCLUDE A COPY OF YOUR PERMANENT RESIDENT CARD, EMPLOYMENT AUTHORIZATION, GREEN CARD, OR PASSPORT WITH A COPY OF YOUR DRIVER'S LICENSE IF YOU ARE A LEGAL PERMANENT RESIDENT (#2).**

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE _____ DAY OF _____.

Notary Public: _____

My Commission Expires: _____

*Note: O.C.G.A. § 50-36-1(e)(2) requires that aliens under the federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the federal definition of "alien", legal permanent residents must also provide their alien registration number. Qualified aliens that do not have an alien registration number may supply another identifying number below:

EXHIBIT D
CERTIFICATION OF CONTRACTOR
GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT

I hereby certify that I am a principal and duly authorized representative of _____, ("Contractor"), whose address is _____, _____.

Contractor hereby agrees to comply with all applicable provisions and requirements of the Georgia Security and Immigration Compliance Act of 2006 (the "Act"), as codified in O.C.G.A. Sections 13-10-90 and 13-10-91 and regulated in Chapter 300-10-1 of the Rules and Regulations of the State of Georgia, "Public Employers, Their Contractors and Subcontractors Required to Verify New Employee Work Eligibility Through a Federal Work Authorization Program," accessed at <http://www.dol.state.ga.us>, as further set forth below.

Contractor agrees to verify the work eligibility of all of newly hired employees through the U.S. Department of Homeland Security's *Employment Eligibility Verification (EEV) / Basic Pilot Program*, accessed through the Internet at <https://www.vis-dhs.com/EmployerRegistration>, in accordance with the provisions and timeline found in O.C.G.A. 13-10-91 and Rule 300-10-1-.02 of the Rules and Regulations of the State of Georgia. As of July 1, 2007, the verification requirement applies to contractors and subcontractors with five-hundred (500) or more employees.

Contractor understands that the contractor and subcontractor requirements of the Act apply to contracts for, or in connection with, the physical performance of services within the State of Georgia.

Contractor understands that the following contract compliance dates set forth in the Act apply to the Contract Agreement, pursuant to O.C.G.A. 13-10-91:

On or after July 1, 2007, to public employers, contractors, or subcontractors of 500 or more employees;

On or after July 1, 2008, to public employers, contractors, or subcontractors of 100 or more employees; and

On or after July 1, 2009, to all other public employers, their contractors, and subcontractors.

To document the date on which the Act is applicable to Contractor, and to document Contractor's compliance with the Act, the undersigned agrees to initial one of the three (3) lines below indicating the employee number category applicable to Contractor, and to submit the indicated affidavit with the Contract Agreement if the Contractor has 500 or more employees

Contractor has:

- _____ 500 or more employees [Contractor must register with the *Employment/Eligibility Verification/Basic Pilot Program* and begin work eligibility verification on July 1, 2007];
- _____ 100-499 employees [Contractor must register with the *Employment Eligibility Verification/Basic Pilot Program* and begin work eligibility verification by July 1, 2008]; or
- _____ 99 or fewer employees [Contractor must begin work eligibility verification by July 1, 2009].

Contractor further agrees to require O.C.G.A. Sections 13-10-90 and 13-10-91 compliance in all written agreements with any subcontractor employed by Contractor to provide services connected with the Contract Agreement, as required pursuant to O.C.G.A. 13-10-91.

Contractor agrees to obtain from any subcontractor that is employed by Contractor to provide services connected with the Contract Agreement, the subcontractor's indication of the employee number category applicable to the subcontractor.

Contractor agrees to secure from any subcontractor engaged to perform services under this Contract an executed "Subcontractor Affidavit," as required pursuant to O.C.G.A. 13-10-91 and Rule 300-10-1-.08 of the Rules and Regulations of the State of Georgia, which rule can be accessed at <http://www.dol.state.ga.us>.

Contractor agrees to maintain all records of the subcontractor's compliance with O.C.G.A. Sections 13-10-90 and 13-10-91 and Chapter 300-10-1 of the Rules and Regulations of the State of Georgia.

CONTRACTOR:

Date: _____

Signature: _____

Title: _____

**EXHIBIT E
REFERENCE FORM**

All references must be from customers for whom your company has provided **similar services** as the specifications of this bid. Offeror shall include three (3) to five (5) reference projects from the past three (3) to five (5) years. Projects shall be a similar scope to the Project. (Additional pages of this form may be used if needed.)

References for: _____

(Company Name)

1. Company _____

Street Address _____

City, State & Zip _____

Contact Person Name _____ Phone _____

Email address _____

Describe specific job performed and date: _____

2. Company _____

Street Address _____

City, State & Zip _____

Contact Person Name _____ Phone _____

Email address _____

Describe specific job performed and date: _____

3. Company _____

Street Address _____

City, State & Zip _____

Contact Person Name _____ Phone _____ Email

address _____

Describe specific job performed and date: _____

EXHIBIT F
INSURANCE REQUIREMENTS

Within 10 days of Notice of Award, and at all times that this Contract is in force, the Contractor shall obtain, maintain and furnish the City Certificates of Insurance from licensed companies doing business in the State of Georgia with an A.M. Best Rating A-10 or higher and acceptable to the City covering:

1. Workers' Compensation & Employer's Liability Insurance. Workers' Compensation Insurance in compliance with the applicable Workers' Compensation Act(s) of the state(s) wherein the work is to be performed or where jurisdiction could apply in amounts required by statutes. Employer's Liability Insurance, with limits of liability of not less than \$1,000,000 per accident for bodily injury or disease.
2. Commercial General Liability Insurance, including contractual liability insurance, product and completed operations, personal and advertising injury, and any other type of liability for which this Contract applies with limits of liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate for personal injury, bodily injury, and property damage. Commercial General Liability Insurance shall be written on an "occurrence" form.
3. Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per accident for bodily injury and property damage if automobiles are to be used in the delivery of or in the completion of services and work or driven onto the City's property. Insurance shall include all owned, non-owned and hired vehicle liability.
4. Umbrella Insurance with limits of liability excess of Employer's Liability Insurance, Commercial General Liability Insurance and Automobile Liability Insurance in the amount of not less than \$3,000,000.
5. Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits not less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
6. Professional (Errors and Omissions) Insurance- For Professional Services and for all Design/Build Projects with limits of liability of not less than \$3,000,000 per occurrence or claim / \$3,000,000 policy aggregate. Such policy shall also include coverage for losses arising from the breach of information security or cyber liability (including Errors & Omissions, Security and Privacy Liability and Media Liability), whether combined with the Professional Liability policy or placed as a separate policy, but carrying the same limits of liability. Such coverage shall insure damage, injury and loss caused by error, omission or negligent acts, including all prior acts without limitation, related to the professional services to be provided under this Contract. The policy shall be amended to include independent contractors providing professional services on behalf of or at the direction of the Contractor. The definition of Contractual Liability shall be amended to state that liability under a contract of professional services is covered. Further, coverage shall be afforded for fraudulent acts, misappropriation of trade secrets, internet professional services, computer attacks, personal injury, regulatory actions, wrongful acts, contractual liability, privacy policy, and insured versus insured. The Contractor shall ensure that coverage under this policy continues for a period of thirty-six (36) months after completion of services.
7. Fidelity Bond (Employee Dishonesty) in the sum of not less than \$50,000.

All such insurance shall remain in effect until final payment is made and the Project is accepted by the City. If the Contractor receives notice of non-renewal or material adverse change of any of the required coverages, the Contractor shall promptly advise the City in writing. Failure of the Contractor to promptly notify the City on non-renewal or material adverse change of any of the required coverages terminates the Agreement as of the date that the Contractor should have given notification to the City.

The insurance policies shall contain or be endorsed to contain, the following provisions:

- (a) A provision that coverage afforded under such policies shall not expire, be canceled or altered without at least thirty (30) days prior written notice to the City.
- (b) Workers' Compensation and Employer's Liability and Property insurance policies shall contain a waiver of subrogation in favor of the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers.
- (c) Commercial General Liability, Automobile Liability Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) insurance policies shall include an endorsement making the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers Additional Insureds under such policies.

A copy of these endorsements shall be provided to the City.

Certificates of Insurance showing that such coverage is in force shall be filed under this Contract by the Contractor to the City.

The obligations for the Contractor to procure and maintain insurance shall not be construed to waive or restrict other obligations and it is understood that insurance in no way limits liability of the Contractor whether or not same is covered by insurance.

Certificate Holder should read: The City of Sandy Springs, 7840 Roswell Road, Building-500, Sandy Springs, Georgia 30350.

**EXHIBIT G
FEE SCHEDULE**

Proposers must submit their fee schedule on this form. Alternatives or fee schedules with different billing categories will not be accepted and can be cause for rejection of the Offeror's proposal.

Item #	Billing Category	Hourly Rate
1.	Principal-In-Charge	
2.	Project Manager	
3.	Engineer, Senior	
4.	Engineer	
5.	Engineer, Associate	
6.	Technician	
7.	CADD Technician	
8.	Administrative Support	
9.	Landscape Architect, Senior	
10.	Landscape Architect	
11.	Surveyor, Principal	
12.	Surveyor, Senior	
13.	Surveyor, Project	
14.	Survey Crew	
15.	Aerial Survey	
16.	Mobile Scanner	
17.	SUE Crew	
18.	Vacuum Excavation Crew	
19.	Planner, Principal	
20.	Planner, Senior	
21.	Planner	
22.	Scientist, Principal	
23.	Scientist, Senior	
24.	Scientist	
25.	Scientist, Associate	

The City of Sandy Springs requires pricing to remain firm for the duration of the initial term of the contract. Failure to hold firm pricing for the initial term of the contract will be sufficient cause for Sandy Springs to declare proposal non-responsive. Unless otherwise noted below, quoted prices will remain firm for four (4) additional one-year renewal periods.

First Renewal Option (year 2 of contract)	_____ % Increase	_____ % Decrease
Second Renewal Option (year 3 of contract)	_____ % Increase	_____ % Decrease
Third Renewal Option (year 4 of contract)	_____ % Increase	_____ % Decrease
Fourth Renewal Option (year 5 of contract)	_____ % Increase	_____ % Decrease

Company Name

EXHIBIT H



SANDY SPRINGS™
GEORGIA

MODEL CONTRACT

AGREEMENT

FOR

On-Call Design Services for Transportation Engineering Projects
(“Project”)

Between

CITY OF SANDY SPRINGS, GEORGIA

(“Sandy Springs”)

And

CONSULTANT NAME

(“Consultant”)

AGREEMENT

INDEX OF ARTICLES

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- ARTICLE 2. DESCRIPTION OF PROJECT
- ARTICLE 3. SCOPE OF SERVICES
- ARTICLE 4. DELIVERABLES
- ARTICLE 5. SERVICES PROVIDED BY SANDY SPRINGS
- ARTICLE 6. MODIFICATIONS/CHANGE ORDERS/VERBAL AGREEMENTS
- ARTICLE 7. TIME OF PERFORMANCE OF WORK
- ARTICLE 8. TERM OF AGREEMENT
- ARTICLE 9. COMPENSATION AND PAYMENT FOR CONSULTANT SERVICES
- ARTICLE 10. QUALIFICATION OF CONSULTANT'S PERSONNEL AND ENDORSEMENT OF DOCUMENTS
- ARTICLE 11. SUSPENSION OF WORK
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AFFIDAVITS

- Affidavit Verifying Status for City Public Benefit Application
- Contractor Affidavit Under O.C.G.A. §13-10-91(b)(1)

AGREEMENT

This Agreement (“Agreement”), made and entered into as of _____ by and between the City of Sandy Springs, a political subdivision of the State of Georgia (“Sandy Springs”), and _____, a corporation of the State of _____ and authorized to do business in the State of Georgia (“Consultant” or “Prime Consultant” or “Contractor”):

WITNESSETH

WHEREAS, Sandy Springs through its governing body desires to retain a qualified and experienced consulting firm to perform certain concept and design services for **On-Call Design Services for Transportation Engineering Projects** (“Project”); and

WHEREAS, Consultant has represented to Sandy Springs that it is experienced and has qualified and local staff available to commit to the Project and Sandy Springs has relied upon such representations;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, Sandy Springs and Consultant agree as follows:

ARTICLE 1 CONSULTANT/OWNER AGREEMENT

Sandy Springs hereby engages Consultant, and Consultant hereby agrees to perform, the services hereinafter set forth and as set forth in the proposal submitted by the Consultant in response to a Sandy Springs’ request for proposal and exhibits thereto (“Proposal”) as it may have been amended, a copy of which is attached hereto as **EXHIBIT A – CONSULTANT’S PROPOSAL**. All exhibits referenced in this Agreement are incorporated by reference and constitute an integral part of this Agreement as if they were contained herein.

ARTICLE 2 DESCRIPTION OF PROJECT

Sandy Springs and Consultant agree that the Project is as described in **EXHIBIT B - DESCRIPTION OF PROJECT**.

ARTICLE 3 SCOPE OF SERVICES

Unless modified in writing by both parties in the manner specified in this Agreement, duties of Consultant shall not be construed to exceed those services specifically set forth herein. Consultant agrees to provide all services, products, and data and to perform all tasks described in **EXHIBIT C – SCOPE OF SERVICES**.

ARTICLE 4 DELIVERABLES

Consultant shall provide to Sandy Springs all deliverables specified in **EXHIBIT D – DELIVERABLES**. Deliverables shall be furnished to Sandy Springs by Consultant in a media form that is acceptable and usable by Sandy Springs at no additional cost at the end of the Project.

ARTICLE 5 SERVICES PROVIDED BY SANDY SPRINGS

Consultant shall gather from Sandy Springs all available non-privileged data and information pertinent to the performance of the services for the Project. Certain services as described in **EXHIBIT C – SCOPE OF SERVICES**, if required, will be performed and furnished by Sandy Springs in a timely manner so as not to unduly delay Consultant in the performance of said obligations. Sandy Springs shall have the final decision as to what data and information is pertinent.

Sandy Springs will appoint in writing a Sandy Springs authorized representative with respect to work to be performed under this Agreement who shall remain the authorized representative until Sandy Springs gives written notice of the appointment of a successor. The Sandy Springs authorized representative shall have complete authority to transmit instructions, receive information, and define Sandy Springs policies. Consultant may rely upon written consents and approvals signed by the Sandy Springs authorized representative.

ARTICLE 6 MODIFICATIONS/CHANGE ORDERS/VERBAL AGREEMENTS

No verbal agreement or conversation with any officer, agent or employee of Sandy Springs either before, during, or after the execution of this Agreement shall affect or modify any of the terms or obligations herein contained, nor shall such verbal agreement or conversation entitle Consultant to any additional payment whatsoever under the terms of this Agreement. If, during the course of performing work on the Project, Sandy Springs and Consultant agree that it is necessary to make changes in the Project as described herein and in referenced exhibits, such changes will be incorporated by written change order and/or supplemental agreements to this Agreement. Any such change order and/or supplemental agreement shall be subject to the express approval of the City of Sandy Springs in its sole discretion and shall further be subject to Sandy Springs' purchasing policies and shall conform to all other applicable requirements of Sandy Springs.

ARTICLE 7 TIME OF PERFORMANCE OF WORK

Consultant shall not proceed to furnish such services and Sandy Springs shall not become obligated to pay for same until a written authorization to proceed ("Notice to Proceed") has been sent to Consultant from Sandy Springs. The time of performance of work shall begin upon the date of Notice to Proceed and continue pursuant to the schedule described in **EXHIBIT E – SCHEDULE OF TIME AND PERFORMANCE OF WORK**. Consultant shall begin work under this Agreement no later than five (5) days after the effective date of Notice to Proceed, and shall dedicate sufficient efforts to each required

task to complete same in accordance with **EXHIBIT E – SCHEDULE OF TIME AND PERFORMANCE OF WORK**.

The time of performance of work does not include time for reviews for the Project by Sandy Springs, its authorized representative, or any other agency or agencies reviewing the Project. Time charges shall cease when a phase specified in the Proposal has been completed to the satisfaction of the Sandy Springs authorized representative.

When a phase specified in the fee proposal has been completed to the satisfaction of the Sandy Springs authorized representative, he will notify Consultant that all tasks of such phase are considered accepted and fulfilled as specified in the fee proposal. A Notice to Proceed shall be issued to the Consultant for the next phase of work and shall address the total time of performance of work remaining on the Agreement.

ARTICLE 8 TERM OF AGREEMENT

The term of this Agreement shall commence on the date of the Notice to Proceed by Sandy Springs. Notwithstanding the foregoing, this Agreement shall continue until Sandy Springs has received and accepted all deliverables. This Agreement shall become effective as of the date of its execution, shall continue in effect for **number of calendar days**, unless the same is amended in writing as provided in this Agreement.

ARTICLE 9 COMPENSATION AND PAYMENT FOR CONSULTANT SERVICES

Compensation for work performed by Consultant on the Project shall be on the basis of rates shown in the Proposal. Direct and miscellaneous costs should be included in the Proposal.

The total contract amount for the Project shall be as set forth in **EXHIBIT F - COMPENSATION AND PAYMENT FOR CONSULTANT SERVICES**, which is full payment for the complete scope of services. Invoices for payment shall be submitted to Sandy Springs by the first (1st) calendar day of the month to facilitate processing for payment in that same month. Invoices received after the first (1st) calendar day of the month may not be paid until the last day of the following month.

The Consultant may submit to Sandy Springs an invoice, in a form acceptable to Sandy Springs and accompanied with all support documentation requested by Sandy Springs, for payment and for services that were completed during the preceding phase. Sandy Springs shall review for approval said invoices. Sandy Springs shall have the right not to pay any invoice or part thereof if not properly supported, or if the costs requested or a part thereof, as determined by Sandy Springs, are reasonably in excess of the actual stage of completion. Sandy Springs shall pay each such invoice or portion thereof as approved, provided that the approval or payment of any such invoice shall not be considered to be evidence of the performance of the Consultant to the point indicated by such invoice, or receipt of acceptance by Sandy Springs of the services covered by such invoice. Sandy Springs shall promptly pay any undisputed items contained in such invoices. As a minimum, each invoice shall include a narrative describing the total work accomplished for each phase, an accurate update of **EXHIBIT E – SCHEDULE OF TIME AND PERFORMANCE OF WORK** reflecting current status and noting any deviations from the schedule,

and a description of the percentage of total work completed for each phase through the date of the statement.

The Consultant must certify in writing that all subcontractors and suppliers have been promptly paid for work and materials and previous progress payments received, less any retainage by the Consultant prior to receipt of any further progress payments. In the event the Prime Consultant is unable to pay subcontractors or suppliers until it has received a progress payment from Sandy Springs, the Prime Consultant shall pay all subcontractors or suppliers funds due from said progress payments within forty-eight (48) hours of receipt of payment from Sandy Springs and in no event later than fifteen (15) days as provided for by state law.

Consultant agrees that the compensation provided herein shall be full and final settlement of all claims arising against Sandy Springs for work done, materials furnished, costs incurred or otherwise arising out of this Agreement and shall release Sandy Springs from any and all further claims related to payment for services and materials furnished in connection with this Agreement.

Sandy Springs and Consultant agree that in the event any Agreement provision pertaining to the time of payment, the rate of payment, and any rates of interest differs from any provision of the Prompt Pay Act, such provision of the Prompt Pay Act is hereby waived and said Agreement provision shall control. Sandy Springs shall not be responsible for any interest penalty for any late payment.

ARTICLE 10 QUALIFICATION OF CONSULTANT'S PERSONNEL AND ENDORSEMENT OF DOCUMENTS

Consultant shall identify in writing a Project manager who shall have sole authority to represent Consultant on all matters pertaining to this Agreement.

Consultant represents that it has secured or will secure, at its own expense, all equipment and personnel necessary to complete its obligations pursuant to this Agreement. No personnel shall be employees of or have any contractual relationship with Sandy Springs. All of the services required hereunder will be performed by Consultant under its supervision and all personnel engaged in the work hereunder shall be fully qualified and shall be authorized or permitted under law to perform such services.

Consultant shall use the design team presented to Sandy Springs at the time of negotiations unless changes in the design team are approved in writing by Sandy Springs. Written notification shall be immediately provided to Sandy Springs upon change or severance of any key personnel or subcontractor performing services on the Project by Consultant. No changes or substitutions shall be permitted in Consultant's key personnel or subcontractors performing services on the Project without the prior written approval of Sandy Springs. Changing of key personnel or subcontractors performing services during the course of the Project without the prior written approval of Sandy Springs shall constitute a cause for termination under the terms outlined in Article 14 hereof entitled "TERMINATION OF AGREEMENT FOR CAUSE".

Consultant shall employ only persons qualified and duly registered in the appropriate category in responsible charge of supervision and design of the work and further shall employ only qualified and duly registered surveyors in responsible charge of any survey work.

Consultant shall endorse all deliverables including reports, and contract plans. Such endorsements shall be made by a person duly registered for such services by the governing authority authorized by the State of Georgia, being in the full employ of Consultant and responsible for the work prescribed by this Agreement.

ARTICLE 11 SUSPENSION OF WORK

Sandy Springs may order Consultant in writing to suspend, delay or interrupt all or any part of the work on the Project for such period of time as he may determine appropriate for the convenience of Sandy Springs. The time for completion of the work shall be extended by the number of days the work is suspended. Sandy Springs shall not be responsible for any claims, damages or costs stemming from any delay of the Project.

ARTICLE 12 UTILITIES

Where privately, publicly or cooperatively owned utility companies will require rearrangements in connection with the proposed construction, Consultant shall furnish prints or sepias to Sandy Springs to be sent by Sandy Springs to the utility owners as directed by Sandy Springs.

Consultant shall make no commitments with the utilities which are binding upon Sandy Springs without the approval of Sandy Springs. Consultant will conduct all coordination with the utilities and authorities; however, Sandy Springs may be asked to participate in such negotiations.

ARTICLE 13 DISPUTES

No civil action with respect to any dispute, claim or controversy arising out of or relating to this Agreement may be commenced without first giving fourteen (14) calendar days' written notice to Sandy Springs of the claim and the intent to initiate a civil action.

ARTICLE 14 TERMINATION OF AGREEMENT FOR CAUSE

Sandy Springs reserves the right to terminate this Agreement at any time for just cause upon thirty (30) days written notice to Consultant, notwithstanding any just claims by Consultant for payment for services rendered prior to the date of termination. Notice of termination shall be delivered by certified mail with receipt for delivery returned to the sender.

Failure of Consultant to comply with all terms of the Agreement, including maintaining required insurance coverage, may be considered just cause for termination. In the event the required insurance coverage is

not maintained, any written notice of termination to Consultant shall be effective immediately notwithstanding the thirty (30) days' notice otherwise required herein. TIME IS OF THE ESSENCE and if the Consultant refuses or fails to perform the work, maintain the scheduled level of effort as proposed and described in this Agreement, or any separable part thereof, with such diligence as will insure completion of the work within the specified time period, as more thoroughly described in Article 8 herein entitled TERM OF AGREEMENT, or any extension or tolling thereof, or fails to complete said work within such time, such failure to perform the work shall constitute cause for termination. Sandy Springs may, by written notice to Consultant, terminate Consultant's right to proceed with the work or such part of the work as to which there has been delay. In such event, Sandy Springs may take over the work and perform the same to completion, by contract or otherwise, and Consultant shall be required to provide all copies of finished or unfinished documents prepared by Consultant under this Agreement to Sandy Springs as stated in **EXHIBIT D – DELIVERABLES**. Consultant shall be entitled to receive compensation for any satisfactory work completed on such documents as reasonably determined by Sandy Springs. Whether or not the Consultant's right to proceed with the work has been terminated, the Consultant shall be liable for any damage to Sandy Springs resulting from the Consultant's refusal or failure to complete the work within the specified time period, and said damages shall include, but not be limited to, any additional costs associated with Sandy Springs obtaining the services of another Consultant to complete the Project.

ARTICLE 15 TERMINATION FOR CONVENIENCE OF SANDY SPRINGS

Notwithstanding any other provisions of this Agreement, Sandy Springs may terminate this Agreement for its convenience at any time by written notice to Consultant. If the Agreement is terminated for convenience of Sandy Springs as provided in this Article, Consultant will be paid compensation for those services actually performed. Partially completed tasks will be compensated based on a signed statement of completion to be submitted by Consultant which shall itemize each task element and briefly state what work has been completed and what work remains to be done.

ARTICLE 16 WAIVER OF BREACH

The waiver by either party of a breach or violation of any provision of this Agreement shall not operate or be construed to be a waiver of any subsequent breach or violation of the same or other provision thereof.

ARTICLE 17 INDEPENDENT CONTRACTOR

Consultant shall perform the services under this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with such relationship or status. Nothing in this Agreement shall be interpreted or construed to constitute Consultant or any of its agents or employees to be the agent, employee or representative of Sandy Springs. Inasmuch as Sandy Springs and Consultant are contractors independent of one another, neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. Consultant agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee of Consultant to do so, without specific prior written authorization from Sandy Springs, and then only for the limited purpose stated in such authorization.

Consultant shall assume full liability for any contracts or agreements that Consultant enters into on behalf of Sandy Springs without the express knowledge and prior written authorization of Sandy Springs.

ARTICLE 18 RESPONSIBILITY OF CONSULTANT

Consultant is employed to render a professional service only and any payments made to Consultant are compensation solely for such services rendered and for recommendations made in carrying out the work. Consultant shall follow the practice of the engineering profession to make findings, opinions, factual presentations, professional advice and recommendations. Errors due to Consultant's failure to comply with standard engineering procedures shall be corrected in a time frame agreed to by Sandy Springs and at Consultant's expense.

ARTICLE 19 COOPERATION WITH OTHERS

Consultant will undertake the Project in cooperation with and in coordination with other studies, projects or related work performed for, with or by Sandy Springs employees, appointed committees or other consultants and contractors. Consultant shall fully cooperate with Sandy Springs and with other consultants, contractors and Sandy Springs employees or appointed committees. Such cooperation shall include, but not be limited to, attendance at meetings, discussions and hearings, as may be requested by Sandy Springs, furnishing plans and other data produced in the course of work on the Project, as may be requested from time to time by Sandy Springs to effect such cooperation and compliance with all directives issued by Sandy Springs. Consultant shall provide Sandy Springs with its schedule of work, time and effort to coordinate with other consultants and contractors under contract with Sandy Springs. Consultant shall not commit or permit any of its employees, agents or subcontractors to commit an act which will interfere with the performance of work to be done on the Project by any other consultant or contractor or by Sandy Springs employees.

ARTICLE 20 ACCURACY OF WORK

Consultant shall be responsible for the accuracy of its work and shall promptly correct its errors and omissions without additional compensation. Acceptance of the work by Sandy Springs will not relieve Consultant of the responsibility of subsequent corrections of any errors, the clarification of any ambiguities, or the costs associated with any additional work caused by negligent errors in, or negligent omissions from, the plans prepared by Consultant. At any time during construction of the Project provided for by the plans or during any phase of work performed by others based on data secured by Consultant under this Agreement, Consultant shall confer with Sandy Springs for the purpose of interpreting the information obtained and to correct any errors or omissions. Consultant shall prepare any plans, reports, field work, or data required by Sandy Springs to correct its errors or omissions. The above consultation, clarification or correction shall be made without added compensation to Consultant. Consultant shall give immediate attention to these changes so there will be a minimum of delay to others. Prior notification by Consultant of the acceptance of any item(s) furnished by Sandy Springs shall transfer the responsibilities for the accuracy of that item(s) to Consultant.

ARTICLE 21 REVIEW OF WORK

Authorized representatives of Sandy Springs may at all reasonable times review and inspect Project activities and data collected under this Agreement and amendments thereto. All reports, drawings, studies, specifications, estimates, maps and computations prepared by or for Consultant, shall be available to authorized representatives of Sandy Springs for inspection and review at all reasonable times in the main office of Sandy Springs. Consultant shall maintain all required records pertinent to this Agreement for a period of three (3) years after final payment is made and all other pending matters are closed. Sandy Springs reserves the right to review and authorize the Project to move forward if affected public agencies, railroads and utilities have not provided timely acceptance. Authorization by Sandy Springs for the Project to move forward in such an event shall not relieve Consultant of its professional obligation to correct, at its expense, any of its errors in work; provided, however, that any additional work which becomes reasonably necessary based on such authorization shall be compensated pursuant to change order as provided in Article 6 hereof so long as such additional work is not due to the fault of Consultant. Sandy Springs may request at any time and Consultant shall produce progress prints or copies of any work as performed under this Agreement. Refusal by Consultant to submit progress reports and/or plans shall be cause for Sandy Springs, without any liability therefore, to withhold payment to Consultant until Consultant complies with Sandy Springs' request in this regard. Sandy Springs' review recommendations shall be incorporated into the plans by Consultant.

ARTICLE 22 INDEMNIFICATION

Consultant agrees, to the fullest extent permitted by law, to indemnify and hold Sandy Springs and its elected officials, and Sandy Springs' officers, contractors, subcontractors, project consultants and employees, harmless from and against damages, liabilities and costs (including, to the extent allowable by law, reasonable attorneys' fees and defense costs incurred in connection with the defense of third party claims) to the extent caused by the negligent, reckless or intentionally wrongful acts, errors or omissions of Consultant in the performance of this Agreement.

Consultant further agrees to protect, defend, indemnify and hold harmless Sandy Springs and its elected officials, and Sandy Springs' officers, contractors, subcontractors, project consultants and employees, from and against any and all claims or liability for compensation under the Workers' Compensation Act arising out of injuries sustained by any employees of Consultant. These indemnities shall not be limited by reason of the listing of any insurance coverage.

ARTICLE 23 CONFIDENTIALITY

Consultant agrees that its conclusions and any reports are for the confidential information of Sandy Springs and that it will not disclose its conclusions in whole or in part to any persons whatsoever, other than to submit its written documentation to Sandy Springs, and will only discuss the same with it or its authorized representatives, except as required under this Agreement to provide information to the public. Upon completion of this Agreement term, all documents, reports, maps, data and studies prepared by Consultant pursuant thereto and any equipment paid for by Sandy Springs as a result of this Agreement,

shall become the property of Sandy Springs and be delivered to the authorized representative of Sandy Springs.

Articles, papers, bulletins, reports, or other materials reporting the plans, progress, analyses, or results and findings of the work conducted under this Agreement shall not be presented publicly or published without the prior approval in writing of Sandy Springs. All releases of information, findings, recommendations, and published reports shall include the disclaimer on the cover and title page in the following form:

“The contents of this publication reflect the views of the author(s), who is responsible for the facts and accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of Sandy Springs. This publication does not constitute a standard, specification or regulation.”

It is further agreed that if any information concerning the Project, its contents, results, or data gathered or processed should be released by Consultant without prior approval from Sandy Springs, the release of the same shall constitute grounds for termination of this Agreement without indemnity to Consultant, but should any such information be released by Sandy Springs or by Consultant with such prior written approval, the same shall be regarded as public information and no longer subject to the restrictions of this Agreement.

Should such information be required to be released under the Georgia Open Records Act, O.C.G.A. § 50-18-70, et seq., the restrictions and penalties set forth herein shall not apply. Any request for information directed to Consultant by the public pursuant to the Georgia Open Records Act shall be redirected to the Sandy Springs for further action.

ARTICLE 24 OWNERSHIP OF INTELLECTUAL PROPERTY AND INFORMATION

Consultant agrees that Sandy Springs is the sole owner of all information, data, and materials that are developed or prepared subject to this Agreement; provided, however, that Sandy Springs acknowledges that such information, data, and materials are Project specific and are not to be used in connection with other projects as a matter of general application. Consultant or any subcontractor is not allowed to use or sell any information subject to this Agreement for educational, publication, profit, research or any other purpose without the written consent of an authorized representative of Sandy Springs. All electronic files used on this Project and necessary to view and/or access information, including any custom or commercially available software developed or used by Consultant, shall become the property of Sandy Springs to the extent that such electronic files are not maintained by Sandy Springs in the ordinary course of business unless the Consultant receives written confirmation from the City that such software shall not be required as part of the Project deliverables. Any required licenses and fees for software or other required materials shall be purchased and/or paid for by Consultant and registered in the name of the authorized representative of Sandy Springs. Any work developed for use on this Project may be released as public domain information by the authorized representative of Sandy Springs at his/her sole discretion.

ARTICLE 25 COVENANT AGAINST CONTINGENT FEES

Consultant warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for any fee, commission, percentage, brokerage or contingent fee, gift or other consideration, excepting bona fide employees maintained by Consultant for the purpose of securing business and that Consultant has not received any non-Sandy Springs fee related to this Agreement without the prior written consent of Sandy Springs. For breach or violation of this warranty, Sandy Springs shall have the right to annul this Agreement without liability or at its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of any such fee, commission, percentage, brokerage or contingent fee, gift or other consideration.

ARTICLE 26 INSURANCE

A. Prior to beginning Work on the Project, the Consultant shall procure and maintain for the duration of this Agreement, and for one (1) years thereafter, at its sole cost and expense such insurance as will fully protect it and the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers from incidents, accidents and claims for personal injury, bodily injury, and property damage which may arise from or in connection with the performance of the work and for the Consultant's professional liability (errors and omissions) under this Agreement, whether such services and work are performed by the Consultant, its agents, representatives, employees, or by any sub consultant or any tier directly employed or retained by either. The following is the minimum insurance and limits that the Consultant must maintain. If the Consultant maintains higher limits than the minimums shown below, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

All of the insurance herein specified shall be written on a form acceptable to the City and shall be A.M. Best Company rated A X or greater. See **EXHIBIT J, INSURANCE REQUIREMENTS** attached hereto and incorporated herein.

B. All such insurance shall remain in effect until final payment is made and the Project is accepted by the City. If the Consultant receives notice of non-renewal or material adverse change of any of the required coverages, the Consultant shall promptly advise the City in writing. Failure of the Consultant to promptly notify the City on non-renewal or material adverse change of any of the required coverages terminates the Agreement as of the date that the Consultant should have given notification to the City. The insurance policies shall contain or be endorsed to contain, the following provisions:

1. A provision that coverage afforded under such policies shall not expire, be canceled or altered without at least thirty (30) days prior written notice to the City.
2. Workers' Compensation and Employer's Liability and Property insurance policies shall contain a waiver of subrogation in favor of the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers.
3. Commercial General Liability, Automobile Liability Consultants' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) insurance policies shall include an endorsement making the City and the City's boards,

officials, directors, officers, employees, representatives, agents, and volunteers Additional Insureds under such policies.

A copy of these endorsements shall be provided to the City.

Certificates of Insurance showing that such coverage is in force shall be filed under this Agreement by the Consultant to the City.

The obligations for the Consultant to procure and maintain insurance shall not be construed to waive or restrict other obligations and it is understood that insurance in no way limits liability of the Consultant whether or not same is covered by insurance.

C. If the City has any objections to the coverage afforded by or provisions of the insurance required to be purchased and maintained by the Consultant, the City will notify the Consultant thereof within twenty (20) days of the date of delivery of such certificates to the City.

D. The Consultant shall provide to the City such additional information in respect of insurance provided by it as the City may reasonably request. The right of the City to review and comment on certificates of insurance is not intended to relieve the Consultant of his responsibility to provide insurance coverage as specified nor to relieve the Consultant of his liability for any claims which might arise.

E. The Consultant agrees to require its Sub consultants to obtain insurance complying with the requirements the requirements of the Contract Documents.

ARTICLE 27 PROHIBITED INTEREST

A. **Conflict of Interest.** Consultant agrees that it presently has no interest and shall acquire no interest, direct or indirect, that would conflict in any manner or degree with the performance of its services hereunder. Consultant further agrees that, in the performance of the Agreement, no person having any such interest shall be employed.

B. **Interest of Public Officials.** No member, officer or employee of Sandy Springs during his tenure shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE 28 SUBCONTRACTING

Unless otherwise provided in this Agreement, Consultant shall not subcontract any part of the work covered by this Agreement or permit subcontracted work to be further subcontracted without prior written approval of Sandy Springs.

ARTICLE 29 ASSIGNABILITY

It is understood by the parties to this Agreement that the work of Consultant is considered personal by Sandy Springs. Consultant shall not assign, sublet or transfer this Agreement or any portion thereof without the prior express written consent of Sandy Springs. Any attempted assignment, subletting or transfer by Consultant without the prior express written consent of Sandy Springs shall at Sandy Springs' sole option terminate this Agreement without any notice to Consultant of such termination. Consultant binds itself, its successors, assigns, and legal representatives of such other party in respect to all covenants, agreements and obligations contained herein.

ARTICLE 30 ANTI-KICKBACK CLAUSE

Salaries of engineers, surveyors, draftsmen, clerical and technicians performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory by law. Consultant hereby promises to comply with all applicable anti-kickback laws, and shall insert appropriate provisions in all subcontracts covering work under this Agreement.

ARTICLE 31 DRUG-FREE WORKPLACE CERTIFICATION

Consultant shall execute a certification in the form of **EXHIBIT G - CERTIFICATION OF CONSULTANT - DRUG-FREE WORKPLACE**, attached hereto and incorporated herein by this reference. Pursuant to the certification, Consultant shall certify that:

- A. the provisions of O.C.G.A. § 50-24-1 through 50-24-6 relating to the "Drug-Free Workplace Act" have been complied with in full;
- B. a drug-free workplace will be provided for the consultant's employees during the performance of this Agreement;
- C. each subcontractor hired by Consultant shall be required to ensure that the subcontractor's employees are provided a drug-free workplace; and
- D. Consultant will not engage in any unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Agreement.

ARTICLE 32 GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT CERTIFICATION

Consultant shall execute a certification in the form of **EXHIBIT H - CERTIFICATION OF CONSULTANT - GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT**, attached hereto and incorporated herein by this reference. Pursuant to the certification, Consultant agrees to comply with all applicable requirements of the Georgia Security and Immigration Compliance Act of 2006 as codified in O.C.G.A. Sections 13-10-90 and 13-10-91 and regulated in Chapter 300-10-1 of the Rules and Regulations of the State of Georgia, "Public Employers, Their Contractors and Subcontractors Required

to Verify New Employee Work Eligibility Through a Federal Work Authorization Program,” accessed at <http://www.dol.state.ga.us>, as further set forth in the certification attached as **EXHIBIT H**.

ARTICLE 33
TITLE VI

The Contractor shall comply with and shall require its subcontractors to comply with the regulations for compliance with Title VI of the Civil Rights Act of 1964, as amended, and 23 CFR 200, as stated in **EXHIBIT I, NOTICE TO CONTRACTORS - COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**, attached hereto and incorporated herein.

ARTICLE 34
AUDITS AND INSPECTORS

At any time during normal business hours and as often as Sandy Springs may deem necessary, Consultant shall make available to Sandy Springs and/or representatives of Sandy Springs for examination all of its records with respect to all matters covered by this Agreement.

It shall also permit Sandy Springs and/or representative of Sandy Springs to audit, examine and make copies, excerpts or transcripts from such records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. Consultant’s records of personnel, conditions of employment, and financial statements (hereinafter “Information”) constitute trade secrets and are considered confidential and proprietary by Consultant. To the extent Sandy Springs audits or examines such Information related to this Agreement, Sandy Springs shall not disclose or otherwise make available to third parties any such Information without Consultant’s prior written consent unless required to do so by law. Nothing in this Agreement shall be construed as granting Sandy Springs any right to make copies, excerpts or transcripts of such Information outside the area covered by this Agreement without the prior written consent of Consultant. Consultant shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the Project and used in support of its Proposal and shall make such material available at all reasonable times during the period of the Agreement and for three (3) years from the date of final payment under the Agreement, for inspection by Sandy Springs or any reviewing agencies and copies thereof shall be furnished upon request and at no additional cost to Sandy Springs. Consultant agrees that the provisions of this Article shall be included in any Agreements it may make with any subcontractor, assignee or transferee.

ARTICLE 35
ACCOUNTING SYSTEM

Consultant shall have an accounting system, which is established and maintained in accordance with generally accepted accounting principles. Consultant must account for costs in a manner consistent with generally accepted accounting procedures, as approved by Sandy Springs.

ARTICLE 36
ENTIRE AGREEMENT

This Agreement, including the exhibits, constitutes the entire agreement of the parties pertaining to the subject matter hereof and is intended as a complete and exclusive statement of promises, representations,

discussions and agreements, oral or otherwise, that have been made in connection therewith. No modification or amendment to this Agreement shall be binding upon the parties unless the same is in writing, signed by the Consultant's and Sandy Springs' duly authorized representatives, subject to Sandy Springs' purchasing policies.

**ARTICLE 37
SEVERABILITY**

If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, enforceable in accordance with its terms.

**ARTICLE 38
HEADINGS**

This Agreement shall not be interpreted by reference to any of the titles or headings to the sections or paragraphs of this Agreement, which have been inserted for convenience purposes only and are not deemed a part hereof.

**ARTICLE 39
COUNTERPARTS**

This Agreement may be executed in one or more counterparts, all of which together shall be deemed to constitute one and the same instrument.

**ARTICLE 40
GENDER AND NUMBER**

This Agreement shall be construed by the actual gender and/or number of the person, persons, entity and/or entities referenced herein, regardless of the gender and/or number used in such reference.

**ARTICLE 41
NOTICES**

All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

Notice to Sandy Springs shall be addressed as follows:

City of Sandy Springs
7840 Roswell Road, Building 500
Sandy Springs, Georgia 30350
ATTN: John McDonough, City Manager

With copies to:

City of Sandy Springs
7840 Roswell Road, Suite 330

City of Sandy Springs
7840 Roswell Road, Building 500

Sandy Springs, Georgia 30350
ATTN: Wendell Willard, City Attorney

Sandy Springs, Georgia 30350
ATTN: _____

Project Manager

Notice to Consultant shall be addressed as follows:

ATTN: _____
Consultant
Project Manager

ARTICLE 42 JURISDICTION

This Agreement shall be administered and interpreted under the laws of the State of Georgia. Jurisdiction of litigation arising from this Agreement shall be in Georgia. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in full force and effect.

Whenever reference is made in the Agreement to standards or codes in accordance with which work is to be performed, the edition or revision of the standards or codes current on the effective date of this Agreement shall apply, unless otherwise expressly stated.

ARTICLE 43 EQUAL EMPLOYMENT OPPORTUNITY

A. During performance of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender, national origin, age, disability, or military or veteran status, or any other status or classification protected by applicable federal, state and local laws. This practice shall apply to all terms and conditions of employment, including but not limited to, hiring, placement, promotion, termination, layoff, recall, transfer, leave of absence, compensation, and training.

B. Consultant shall undertake equal employment opportunity efforts to ensure that applicants and employees are treated without regard to their race, color, religion, sex, sexual orientation, gender, national origin, age, disability, or military or veteran status, or any other status or classification protected by applicable federal, state and local laws. Consultant's equal employment opportunity efforts shall include, but not be limited to, all terms and conditions of employment, including but not limited to, hiring, placement, promotion, termination, layoff, recall, transfer, leave of absence, compensation, and training.

C. Consultant will, in all solicitations or advertisements for employees placed by, or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to

their race, color, religion, sex, sexual orientation, gender, national origin, age, disability, or military or veteran status, or any other status or classification protected by applicable federal, state and local laws.

D. Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

**ARTICLE 44
FORCE MAJEURE**

Neither Sandy Springs nor Consultant shall be deemed in violation of this Agreement if either is prevented from performing its obligations hereunder for any reason beyond its control, including but not limited to acts of God, civil or military authority, act of public enemy, accidents, fires, explosions, earthquakes, floods or catastrophic failures of public transportation; provided, however, that nothing herein shall relieve or be construed to relieve Consultant from performing its obligations hereunder in the event of riots, rebellions or legal strikes.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized agents, have signed and sealed this Agreement.

CITY OF SANDY SPRINGS, GEORGIA

By: _____
John McDonough, City Manager

Date of Execution

ATTEST:

By: _____
City Clerk

(SEAL)

Approved as to Form:

By: _____
Assistant City Attorney

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

CONTRACTOR

Date of Execution

By: _____
Name:

(typed or printed name)

Title

ATTEST:

By: _____
Secretary for Corporation

(SEAL)

Witness

Executed in originals of four (4).

FINAL AFFIDAVIT

TO SANDY SPRINGS

I, _____, hereby certify that all suppliers of materials, equipment and services, subcontractors, mechanics, and laborers employed by _____ (“Consultant”) or any of its subcontractors in connection with the design and/or construction of _____ (the “Project”) have been paid and satisfied in full as of _____, 20__, and that there are no outstanding obligations or claims of any kind for the payment of which Sandy Springs on the Project might be liable, or subject to, in any lawful proceeding at law or in equity.

Signature

Title

Personally appeared before me this ____ day of _____, 20__, _____ who under oath deposes and says that he is _____ of _____ (“Consultant”), that he has read the above statement and that, to the best of his knowledge and belief, the same is an exact true statement.

Notary Public

My commission expires: _____

EXHIBIT A
CONSULTANT'S PROPOSAL

EXHIBIT B
DESCRIPTION OF PROJECT

EXHIBIT C
SCOPE OF SERVICES

EXHIBIT D
DELIVERABLES

EXHIBIT E
SCHEDULE OF TIME AND PERFORMANCE OF WORK

EXHIBIT F
COMPENSATION AND PAYMENT FOR CONSULTANT SERVICES

EXHIBIT G
CERTIFICATION OF CONSULTANT - DRUG-FREE WORKPLACE

I hereby certify that I am a principle and duly authorized representative of _____, (“Contractor”), whose address is _____, _____, _____, and I further certify that:

- (1) The provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the “Drug-Free Workplace Act” have been complied with in full; and
- (2) A drug-free workplace will be provided for Contractor’s employees during the performance of the Agreement; and
- (3) Each Subcontractor hired by Contractor shall be required to ensure that the subcontractor’s employees are provided a drug-free workplace. Contractor shall secure from that subcontractor the following written certification: “As part of the subcontracting agreement with Contractor, _____ certifies to Contractor that a drug-free workplace will be provided for the Subcontractor’s employees during the performance of this Agreement pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated, Section 50-24-3”; and
- (4) The undersigned will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Agreement.

CONTRACTOR:

Date: _____ Signature: _____
Title: _____

EXHIBIT H
GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT CERTIFICATION

I hereby certify that I am a principle and duly authorized representative of _____, (“Contractor”), whose address is _____, _____.

Contractor hereby agrees to comply with all applicable provisions and requirements of the Georgia Security and Immigration Compliance Act of 2006 (the “Act”), as codified in O.C.G.A. Sections 13-10-90 and 13-10-91 and regulated in Chapter 300-10-1 of the Rules and Regulations of the State of Georgia, "Public Employers, Their Contractors and Subcontractors Required to Verify New Employee Work Eligibility Through a Federal Work Authorization Program," accessed at <http://www.dol.state.ga.us>, as further set forth below.

Contractor agrees to verify the work eligibility of all of newly hired employees through the U.S. Department of Homeland Security’s *Employment Eligibility Verification (EEV) / Basic Pilot Program*, accessed through the Internet at <https://www.vis-dhs.com/EmployerRegistration>, in accordance with the provisions and timeline found in O.C.G.A. 13-10-91 and Rule 300-10-1-.02 of the Rules and Regulations of the State of Georgia. As of July 1, 2007, the verification requirement applies to contractors and subcontractors with five-hundred (500) or more employees.

Contractor understands that the contractor and subcontractor requirements of the Act apply to contracts for, or in connection with, the physical performance of services within the State of Georgia.

Contractor understands that the following contract compliance dates set forth in the Act apply to the Contract Agreement, pursuant to O.C.G.A. 13-10-91:

On or after July 1, 2007, to public employers, contractors, or subcontractors of 500 or more employees;

On or after July 1, 2008, to public employers, contractors, or subcontractors of 100 or more employees; and

On or after July 1, 2009, to all other public employers, their contractors, and subcontractors.

To document the date on which the Act is applicable to Contractor, and to document Contractor’s compliance with the Act, the undersigned agrees to initial one of the three (3) lines below indicating the employee number category applicable to Contractor, and to submit the indicated affidavit with the Contract Agreement if the Contractor has 500 or more employees.

Contractor has:

_____ 500 or more employees [Contractor must register with the *Employment/Eligibility Verification/Basic Pilot Program* and begin work eligibility verification on July 1, 2007];

_____ 100-499 employees [Contractor must register with the *Employment Eligibility Verification/Basic Pilot Program* and begin work eligibility verification by July 1, 2008]; or

_____ 99 or fewer employees [Contractor must begin work eligibility verification by July 1, 2009].

Contractor further agrees to require O.C.G.A. Sections 13-10-90 and 13-10-91 compliance in all written agreements with any subcontractor employed by Contractor to provide services connected with the Contract Agreement, as required pursuant to O.C.G.A. 13-10-91.

Contractor agrees to obtain from any subcontractor that is employed by Contractor to provide services connected with the Contract Agreement, the subcontractor's indication of the employee number category applicable to the subcontractor.

Contractor agrees to secure from any subcontractor engaged to perform services under this Contract an executed "Subcontractor Affidavit," as required pursuant to O.C.G.A. 13-10-91 and Rule 300-10-1-.08 of the Rules and Regulations of the State of Georgia, which rule can be accessed at <http://www.dol.state.ga.us>.

Contractor agrees to maintain all records of the subcontractor's compliance with O.C.G.A. Sections 13-10-90 and 13-10-91 and Chapter 300-10-1 of the Rules and Regulations of the State of Georgia.

CONTRACTOR:

Date: _____ Signature: _____

Title: _____

**EXHIBIT I
TO CONTRACT AGREEMENT**

**NOTICE TO CONTRACTORS
COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “Contractor”), agrees as follows:

1. **Compliance with Regulations:** The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the “Regulations”), which are herein incorporated by reference and made a part of the Contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it afterward and prior to completion of the Contract work, will not discriminate on the ground of race, color, sex, or national origin in the selection and retention of subcontracts including procurements of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when contract covers a program set forth in Appendix B of the Regulations. In addition, the Contractor will not participate either directly or indirectly in discrimination prohibited by 23 CFR 710.405 (b).
3. **Solicitations for subcontracts, including procurements of materials and equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor’s obligations under this Contract and the Regulations relative to nondiscrimination on the ground of race, color, national origin or sex.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Department of Transportation, or the Federal Highway Administration as appropriate and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the Contractor’s noncompliance with the nondiscrimination provisions of this Contract, the Department of Transportation shall impose such Contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the Contractors under the Contract until the Contractor complies, and/or
 - (b) cancellation, termination or suspension of the Contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraph (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the

Regulations, orders or instruction issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as result of such direction, the Contractor may request the State to enter into such litigation to protect the interests of the State, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

EXHIBIT J

TO CONTRACT AGREEMENT

INSURANCE REQUIREMENTS

Within 10 days of Notice of Award, and at all times that this Contract is in force, the Contractor shall obtain, maintain and furnish the City Certificates of Insurance from licensed companies doing business in the State of Georgia with an A.M. Best Rating A-10 or higher and acceptable to the City covering:

1. Workers' Compensation & Employer's Liability Insurance. Workers' Compensation Insurance in compliance with the applicable Workers' Compensation Act(s) of the state(s) wherein the work is to be performed or where jurisdiction could apply in amounts required by statutes. Employer's Liability Insurance, with limits of liability of not less than \$1,000,000 per accident for bodily injury or disease.
2. Commercial General Liability Insurance, including contractual liability insurance, product and completed operations, personal and advertising injury, and any other type of liability for which this Contract applies with limits of liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate for personal injury, bodily injury, and property damage. Commercial General Liability Insurance shall be written on an "occurrence" form.
3. Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per accident for bodily injury and property damage if automobiles are to be used in the delivery of or in the completion of services and work or driven onto the City's property. Insurance shall include all owned, non-owned and hired vehicle liability.
4. Umbrella Insurance with limits of liability excess of Employer's Liability Insurance, Commercial General Liability Insurance and Automobile Liability Insurance in the amount of not less than \$3,000,000.
5. Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits not less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
6. Professional (Errors and Omissions) Insurance- For Professional Services and for all Design/Build Projects with limits of liability of not less than \$3,000,000 per occurrence or claim / \$3,000,000 policy aggregate. Such policy shall also include coverage for losses arising from the breach of information security or cyber liability (including Errors & Omissions, Security and Privacy Liability and Media Liability), whether combined with the Professional Liability policy or placed as a separate policy, but carrying the same limits of liability. Such coverage shall insure damage, injury and loss caused by error, omission or negligent acts, including all prior acts without limitation, related to the professional services to be provided under this Contract. The policy shall be amended to include independent contractors providing professional services on behalf of or at the direction of the Contractor. The definition of Contractual Liability shall be amended to state that liability under a contract of professional services is covered. Further, coverage shall be afforded for fraudulent acts, misappropriation of trade secrets, internet professional services, computer attacks, personal injury, regulatory actions, wrongful acts, contractual liability, privacy policy, and insured versus insured. The Contractor shall ensure that coverage under this policy continues for a period of thirty-six (36) months after completion of services.

7. Fidelity Bond (Employee Dishonesty) in the sum of not less than \$50,000.

All such insurance shall remain in effect until final payment is made and the Project is accepted by the City. If the Contractor receives notice of non-renewal or material adverse change of any of the required coverages, the Contractor shall promptly advise the City in writing. Failure of the Contractor to promptly notify the City on non-renewal or material adverse change of any of the required coverages terminates the Agreement as of the date that the Contractor should have given notification to the City. The insurance policies shall contain or be endorsed to contain, the following provisions:

- (d) A provision that coverage afforded under such policies shall not expire, be canceled or altered without at least thirty (30) days prior written notice to the City.
- (e) Workers' Compensation and Employer's Liability and Property insurance policies shall contain a waiver of subrogation in favor of the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers.
- (f) Commercial General Liability, Automobile Liability Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) insurance policies shall include an endorsement making the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers Additional Insureds under such policies.

A copy of these endorsements shall be provided to the City.

Certificates of Insurance showing that such coverage is in force shall be filed under this Contract by the Contractor to the City.

The obligations for the Contractor to procure and maintain insurance shall not be construed to waive or restrict other obligations and it is understood that insurance in no way limits liability of the Contractor whether or not same is covered by insurance.

Certificate Holder should read: The City of Sandy Springs, 7840 Roswell Road, Building-500, Sandy Springs, Georgia 30350.

AFFIDAVITS

**Affidavit Verifying Status
for City Public Benefit Application
(Bidder to sign and return)**

By executing this affidavit under oath, as an applicant for a City of Sandy Springs, Georgia Business License or Occupation Tax Certificate, Alcohol License, Taxi Permit, execution of contract or other public benefit as referenced in O.C.G.A. Section 50-36-1, I am stating the following with respect to my application for a City of Sandy Springs license/permit and/or contract for

[Name of natural person applying on behalf of individual, business, corporation, partnership, or other private entity]

1) _____ I am a United States citizen

OR

2) _____ I am a legal permanent resident 18 years of age or older or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States. *

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of Code Section 16-10-20 of the Official Code of Georgia.

Signature of Applicant: _____ Date: _____

Printed Name: _____

*Alien Registration number for non-citizens

****PLEASE INCLUDE A COPY OF YOUR PERMANENT RESIDENT CARD, EMPLOYMENT AUTHORIZATION, GREEN CARD, OR PASSPORT WITH A COPY OF YOUR DRIVER'S LICENSE IF YOU ARE A LEGAL PERMANENT RESIDENT (#2).**

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE _____ DAY OF _____.

Notary Public: _____

My Commission Expires: _____

*Note: O.C.G.A. § 50-36-1(e)(2) requires that aliens under the federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the federal definition of "alien", legal permanent residents must also provide their alien registration number. Qualified aliens that do not have an alien registration number may supply another identifying number below:

Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)
(Bidder to sign and return)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of the City of Sandy Springs has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor

Name of Project

Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ in _____ (city), _____ (state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME

ON THIS THE _____ DAY OF _____

NOTARY PUBLIC

My Commission Expires: _____