



SANDY SPRINGS™

GEORGIA

REQUEST FOR PROPOSALS #20-057 SUSTAINABILITY MASTER PLAN

In alignment with recommendations from public health officials to reduce gatherings of large groups and the increasing threat of COVID-19, the City of Sandy Springs has decided not to hold a face to face pre-proposal meeting for project #20-057. Instead there will only be a call-in conference.

PRE-PROPOSAL MEETING: April 6, 2020, 10:00 a.m. EST

Join via link:

<https://sglass-640.my.webex.com/sglass-640.my/j.php?MTID=mdd83c3d6e50b6d95ee9a999d7a5fa5f8>

Meeting Number 149 015 630

Password kEDJtgdN922

Host Key 468657

Join via Phone:

1-650-215-5226

Access Code 149 015 630

Proposals are due: April 23, 2020, no later than 2:00 p.m. EST

Sealed Proposals must be received no later than **April 23, 2020, 2:00 p.m. EST**. The City of Sandy Springs ("City") will only accept online submissions for this RFP through the Bonfire Portal at <https://sandysprings.bonfirehub.com/projects/view/24978>. Any Proposal submitted in any other format (e-mail, paper, fax, mail, etc.) will not be accepted for any reason.

General Information:

1. All communications regarding this procurement must be with the assigned Procurement Officer, Charise Glass, Purchasing Manager, at purchasing@sandyspringsga.gov.
2. All questions or requests for clarification must be sent via Bonfire under Message Opportunity Q&A:

<https://sandysprings.bonfirehub.com/projects/view/24978>

Questions are due no later than **April 13, 2020, 5:00 p.m. EST**. Questions received after this date and time may not be answered.

3. Questions and clarifications will be answered in the form of an addendum. Any addenda, schedule changes and other important information regarding this procurement will be posted on Bonfire website at <https://sandysprings.bonfirehub.com/projects/view/24978>. It is the Offeror's responsibility to check the Bonfire portal for any addenda or other communications related to this procurement.
4. The form of contract ("Model Contract") the City intends to execute with the selected Offeror is included as Attachment A for review.
5. The City reserves the right to reject all bids and to waive technicalities and informalities, and to make award in the best interest of the City.
6. An Offeror's RFP Checklist is provided for your convenience below. This checklist is provided for assistance only and should not be submitted with the Proposal.

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Attachment A: MODEL CONTRACT, which includes all Exhibits attached thereto including:

- Scope of Services and/or Contractor Proposal
- Cost Proposal
- Certification of Contractor - Georgia Security and Immigration Compliance Act
- Certification of Consultant - Drug-Free Workplace
- Affidavit Verifying Status for City Public Benefit Application
- Contractor Affidavit Under O.C.G.A. § 13-10-91(b)(1)
- Insurance Requirements
- Notice to Contractors - Compliance with Title VI of the Civil Rights Act of 1964

PROPOSAL SIGNATURE AND CERTIFICATION

I certify that this Proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Proposal ("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 this Proposal and certify that I am authorized to sign this Proposal 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: _____

Company Name: _____

CORPORATE CERTIFICATE

I, _____, certify that: I am the Secretary of the company named as Offeror in the foregoing Proposal; that _____, who signed said Proposal on behalf of the Offeror, was then (title) _____ of said company; that said Proposal was duly signed for and in behalf of said company by authority of its governing body, 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 _____, 2020.

(Signature)

(Seal)

Corporate Name: _____

d/b/a: _____

OFFEROR'S RFP CHECKLIST

10 Critical Things to Keep in Mind When Responding to an RFP 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 Procurement Officer's name, address, phone numbers 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. _____ **Attend the pre-Proposal meeting.** This meeting will provide an opportunity to ask questions, obtain a better understanding of the Project, or to notify the City of any ambiguities, inconsistencies, or errors in the RFP. This meeting is voluntary, but all potential Offerors are strongly encouraged to attend.
4. _____ **Take advantage of the "question and answer" period.** Submit your questions to the Procurement Officer by the due date listed in the RFP and view the answers given in any formal "addenda" issued for the RFP. All addenda issued for an RFP will be distributed by e-mail to Offerors.
5. _____ **Follow the format required in the RFP** when preparing a Proposal. Provide point-by-point responses to all sections in a clear and concise manner.
6. _____ **Provide complete answers/descriptions.** Read and answer **all** questions and requirements. Don't assume the City or Evaluation Committee will know what your company's capabilities are or what items/services you can provide, even if you have previously contracted with the City. Proposals are evaluated based on the information and materials provided in response to the RFP.
7. _____ **Use the forms provided**, e.g. cover page, reference questionnaire, etc.
8. _____ **Review the RFP document again** to make sure that you have addressed all requirements. The original Proposal and the requested copies must be identical and complete. The copies are provided to the Evaluation Committee members and will be used to evaluate Proposals.
9. _____ **Submit the Proposal on time.** Note all the dates and times listed in this RFP, and be sure to submit all required items on time. Late Proposals will not be accepted.

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

SECTION 1: BACKGROUND AND GENERAL INFORMATION

The City of Sandy Springs, Georgia (“City” or “Sandy Springs”), is soliciting proposals for the services of a consulting firm to produce a Sustainability Plan (“Sustainability Plan”). The Sustainability Plan will include an inventory of current initiatives, a brief benchmarking study and an action plan outlining priorities, milestones and performance measures, as more particularly described in Section 2: Scope of Services (“Project”).

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

Sandy Springs was incorporated in 2005, the first new city in Georgia in more than fifty (50) years. Based on 2019 Census estimates, the City is home to more than 108,000 residents, with the population more than doubling during the business day due to the heavy concentration of businesses located in Sandy Springs. Among the many Fortune 500 and 1,000 companies which call the City home are UPS, Newell Rubbermaid, Mercedes-Benz USA, Veritiv, Graphic Packaging, Beazer Homes USA, First Data, WestRock, and Intercontinental Exchange (parent company of the New York Stock Exchange). Businesses deem Sandy Springs as a desirable city in which to location for the following reasons: an interstate road network connects goods and people to the Eastern U.S. in hours; abundant intellectual capital such as Georgia Tech, Emory, the University of Georgia, Georgia State and Kennesaw State all sit at the City’s front door; the City is located in the economic heartbeat of the Metro Atlanta area.

Sandy Springs also excels as a place to live with amenities that stress an enhanced quality of life. More than 950 acres of parkland surround the City and residents and visitors of all ages can enjoy the many activities found in any one of the City’s sixteen (16) parks. The City’s Recreation and Parks Department, in partnership with the National Park Service, maintains beautiful trails for hiking and exploring the City’s twenty-two (22) miles of the Chattahoochee River shoreline. Sandy Springs also encourages embracing arts and culture. In 2018, the Sandy Springs Performing Arts Center at City Springs opened, adding performance and visual arts from jazz to musical theatre to rock concerts to dance, to sculpture and rotating galleries. City Springs features the 1,100 seat Byers Theatre, Studio Theatre, Sandy Springs Conference Center, and the event-programmed City Green.

Sandy Springs embraces sustainability in its municipal operations as well as in its development regulations. For instance, the City was recognized by the Atlanta Regional Commission as a Green Community at the gold level earlier this year. Staff has also compiled a long list of potential sustainability projects to undertake, however there is no comprehensive policy steering all these efforts. The City is seeking the services of a consulting firm with solid expertise in environmental sustainability to complete and supplement the work started internally.

The Sustainability Plan will be a guiding document used to further align internal operations with the sustainability priorities, and to fine-tune development regulations and policies to link sustainability to land use, transportation, economic development and other planning objectives. The Sustainability Plan is intended to be an inspiring document that will serve as a tool for decision makers and community members alike.

SECTION 2: SCOPE OF SERVICES

Community Engagement

The City firmly believes in the necessity of meaningfully engaging the community into major decision-making processes. The public participation element of this Project will be embedded in each and every task conducted

by the Consultant. At least one (1) major public event, smaller and targeted outreach efforts, and a strong web presence are expected.

Meetings:

- Discussion with key staff on proposed plan for engaging the community

Deliverables:

- Engagement Plan

Task 1 - Inventory of current initiatives

The Sustainability Plan should work cohesively with the City's Next Ten Comprehensive Plan, the City's Transportation Master Plan and other recent planning efforts. The selected Offeror ("Consultant") will compile and analyze all the sustainability initiatives listed in official plans and those in practice that may not be documented. Major themes or trends should be outlined. This assessment will serve as a baseline for future evaluation.

Meetings:

- Interview all City department heads and key personnel
- Consult with appropriate community stakeholders (including, but not limited to, Visit Sandy Springs, Keep North Fulton Beautiful, Chamber of Commerce, etc.)

Deliverables:

- Summary of findings, organized by theme
 - Findings should include metrics when possible
- One (1) page informational brochure(s) and relevant graphics

Task 2 - Benchmarking

The Consultant will identify and study comparable cities in the Southeast and national leaders. Environmental sustainability priorities and initiatives in those cities will be used to delineate best practices and highlight areas of improvement for Sandy Springs.

Additionally, a review of relevant rating systems will highlight the best fits for Sandy Springs, should the City adopt a formal system in the future.

Meetings:

- N/A

Deliverables:

- Summary of findings. When relevant, easy-to-read graphics should be included.

Task 3 - Visioning and identification of priorities

The Consultant will help define a multi-faceted vision of sustainability for Sandy Springs and establish clear actionable priorities that will implement the vision. This task will uncover areas of strength, gaps and areas for improvement, and areas for innovative new approaches.

The vision will be bold and inspiring. The priorities will cover the role of the City as an organization (internal operations) and as a regulatory agency (ordinances) as well as the potential for collaboration with the

community (residents, businesses and institutions). Together, the vision and priorities will establish a framework that will be used to rank the different implementation actions.

Potential considerations include:

- Support: How likely is it that the vision and priorities will be embraced by the City and the community? How do they relate to other adopted planning documents?
- Breadth of impact: Do the priorities relate to a large portion of the community, either in terms of population or geography? How likely is it that they will catalyze meaningful changes?
- Anticipated benefits: What are the expected benefits to result from the priorities?
- Cost of inaction: What would be the consequences if a priority was not adopted?

Meetings:

- Interview elected officials, City Management, all department heads and key personnel
- Consult with appropriate community stakeholders (Sandy Springs Conservancy, Environment Sandy Springs, Council of Neighborhoods, etc.) and neighboring jurisdictions
- One major public outreach activity

Deliverables:

- Collateral materials for public outreach activity
- Summary of findings. When relevant, graphics should be included

Task 4 - Action Plan

The Action Plan is the implementation portion of the Sustainability Plan. It will align with the vision and priorities, and layout the recommended implementation strategy. Each priority should be accompanied by:

- Desired outcomes: What is the desired future state of the City within this topic area?
- Goals: Outline the goals that will help the City achieve a desired outcome
- Action steps: A breakdown of the actions necessary to achieve the priority
- Timeframe: A window of time associated with the completion of each action step. Actions should be divided into short-term (1-2 years), medium-term (2-5 years), and long-term (5-10 years)
- Responsible parties: Identify who will be in charge of implementation: a specific City division, outside organizations or the community
- Performance measures: Metrics to measure success over time
- Financial implications: Anticipated magnitude of cost and potential source(s) of funding, including identification of relevant grant funding that could be considered. Implications should also consider return on investment
- Anticipated benefits: How the priority will benefit the triple-bottom line

Meetings:

- Presentation(s) of draft Sustainability Plan to City Council
- Presentation of final Sustainability Plan to City Council for adoption

Deliverables:

- Sustainability Plan (digital version (editable and PDF) and twelve (12) printed copies). The Sustainability Plan should be attractively designed and include compelling visual representations of ideas and data. The Sustainability Plan should also include a brief Executive Summary that can serve as a stand-alone document.
- Detailed findings from Tasks 1 through 3 in annex
- Supporting materials to accompany the Sustainability Plan, such as brochures, executive summaries, info-graphics, and presentations.
- Content for website

SECTION 3: SUBMITTALS

Proposals shall be submitted through the Bonfire portal at:

<https://sandysprings.bonfirehub.com/opportunities/24978>

no later than 2:00 p.m. EST on April 23, 2020.

A Proposal received after this date and time or at any other location will not be accepted or considered. The City is not responsible for delays caused for any reason. It is the Offeror's sole responsibility to submit its Proposal before the required deadline. Hard copy, electronic and facsimile submittals will not be accepted.

SECTION 4: CONTENTS OF PROPOSAL AND EVALUATION CRITERIA

The RFP and Proposals will enable the City to gather additional information and identify qualified companies to perform the Scope of Services described in Section 2. The City will conduct a comprehensive, fair and impartial evaluation of all Proposals received. An evaluation committee ("Evaluation Committee") will be established by the City to evaluate Proposals. The City reserves the right, among others, to determine that no qualified Proposals have been received and reject all Proposals.

A. Contents of Proposal

A Proposal shall contain two (2) components: (1) Technical Proposal; and (2) Cost Proposal. The Technical and Cost Proposals shall contain the information described below. It is not necessary or desirable to prepare an elaborate or extensive Proposal for this Project; detailed brochures, documentation, artwork, or other superfluous embellishments are unnecessary and are, in fact, discouraged.

The Technical Proposal shall include the following:

1. Cover Sheet (not to exceed one (1) page)
2. Table of Contents (not to exceed one (1) page)
3. Project Team (not to exceed six (6) pages)
 - a. Brief history of Offeror organization;
 - b. Description of experience and capacity to manage projects of the size and scope proposed in this RFP
 - c. Description of what makes the Offeror uniquely qualified for this Project, emphasizing the multidisciplinary character of the proposed team

- d. Description of the Project team, including individual members, and professional profile, credentials, and relevant experience;
- e. Specific assignments for each Project team member and primary point of contact for Offeror.

(Individual Resumes may be included in an appendix)

- 4. Similar Experience and References (not to exceed one (1) page per reference)
 - a. Provide at least three (3) but no more than five (5) references for relevant projects completed by the Offeror and/or team members in the past five (5) years
 - b. Each reference should include:
 - i. Project description and link to review the subsequent report, if available
 - ii. Location, cost, and name of entity for which work was performed
 - iii. Population of jurisdiction in which project reference is located, if applicable
 - iv. Entity contact information including current title, phone number, and e-mail address
- 5. Project Understanding and Schedule (not to exceed seven (7) pages)
 - a. Describe Offeror’s overall approach, engagement strategy for key stakeholders, and work plan for the Project
 - b. Describe the tools and methodologies the Offeror intends to use to complete the Project on time and within scope and budget
 - c. Provide a detailed schedule of the Offeror’s work plan for the Project. The City anticipates issuing a Notice to Proceed in July of 2020 with the Project being completed by early 2021

The Cost Proposal shall be submitted separately and shall include the following:

- 1. A pricing sheet that incorporates all direct and indirect costs associated with the Project
- 2. A narrative demonstrating that the Cost Proposal is competitive and innovative
- 3. A discussion of any proposed items not included in the Scope of Services and separate pricing for those items

B. Evaluation Criteria

Proposals will be scored and ranked based upon how well the Offeror demonstrates its knowledge and understanding of the evaluation criteria for the Technical Proposal described herein. The City reserves the right to short list and conduct interviews should the need arise to complete the selection process.

The Technical Proposal evaluation criteria consists of the following: Offeror Description and Project Team; Similar Experience and References; and Outline of Services and Proposed Schedule. The following weighting will be given to each element:

CRITERIA FOR TECHNICAL PROPOSALS	WEIGHT IN EVALUATION
Project Team	30%
Similar Experience and References	40%
Project Understanding and Proposed Schedule	30%
TOTAL	100%

Cost Proposals will be reviewed for reasonableness and realism against the City's independent assessment following evaluation of Technical Proposals. Cost Proposals will be considered for technically qualified Proposals after the technical evaluation is completed.

SECTION 5: PRE-SUBMITTAL INQUIRIES

All questions or requests for clarification shall be sent via Bonfire under Message - Opportunity Q&A:

<https://sandysprings.bonfirehub.com/projects/view/24978>

or directed to: purchasing@sandyspringsga.gov.

Questions are due no later than **April 13, 2020, 5:00 pm EST**. Questions received after this date and time may not be answered.

Questions and clarifications will be answered in the form of an addendum. Any addenda, schedule changes and other important information regarding this procurement will be posted on the Bonfire website at:

<https://sandysprings.bonfirehub.com/projects/view/24978>

It is the Offeror's responsibility to check the Bonfire portal frequently for any addenda or other communications related to this procurement.

SECTION 6: COMMUNICATIONS

Questions or comments regarding this procurement shall be submitted in writing via e-mail to the Procurement Officer ONLY (see address below). The Offeror shall clearly reference the section and page numbers of the RFP which are applicable to the question(s) or comment(s) submitted.

Note: Oral questions will not be accepted due to the possibility of misunderstanding or misinterpretation.

Offerors are encouraged to submit questions or comments; however, they must be submitted no later than **April 13, 2020, 5:00 p.m. EST**, to allow for analysis and dissemination of the City's responses in advance of the Proposal due date. Questions received after this date and time may not be answered.

The principal point of contact for this procurement is the Procurement Officer, Charise Glass, Purchasing Manager for the City. Ms. Glass can be reached via e-mail at purchasing@sandyspringsga.gov. Until a Consultant is selected and the selection is announced regarding the procurement, elected officials, Evaluation Committee members, employees of the City, and contracted personnel receiving information and documents regarding this procurement are not allowed to communicate regarding the procurement for any reason with any potential or interested contractors, vendors, City staff, or contracted personnel except through the City's Procurement Officer or designated successor.

For violation of this restriction, the City reserves the right to reject the Proposal of any potential or interested contractor or vendor who knowingly participates in such violation. Any City staff or elected officials who violate this restriction acknowledge such conduct may result in an ethics violation pursuant to the City's ethics ordinance and/or disqualification from further participation in, or briefing on, the procurement. All communications concerning this procurement must be directed to the Procurement Officer named in this procurement.

SECTION 7: SCHEDULE OF EVENTS*

EVENT	DATE
RFP Released	March 25, 2020
Pre-Proposal Meeting	April 6, 2020, 10:00 a.m.
Deadline for Receipt of Inquiries	April 13, 2020, 5:00 p.m.
Deadline for Posting Written Answers to Inquiries	April 17, 2020, 5:00 p.m.
Proposal Due Date	April 23, 2020, 2:00 p.m.
Proposal Evaluations Completed	May 6, 2020
Presentations/Interviews	May 27, 2020
Final Selection	June, 2020

*This proposed schedule of events is informational and is subject to change at the discretion of the City.

SECTION 8: TERMS AND CONDITIONS

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

- A. All applicable federal and State of Georgia laws and City of Sandy Springs ordinances, licenses and regulations of all agencies having jurisdiction shall apply to Offerors throughout and are incorporated herein.
- B. Professionals requiring special licenses shall 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 Proposal shall be accepted from, and no contract shall 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 an Offeror satisfactory evidence that it has the necessary financial resources to accomplish the requirements of the contract.
- E. From the date this RFP is issued until a Consultant 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 Charise Glass, Purchasing Manager in charge of this procurement. Any unauthorized contact may disqualify the Offeror from further consideration. Contact information for the single point of contact is as follows:

Charise Glass, Purchasing Manager
City of Sandy Springs
1 Galambos Way
Sandy Springs, Georgia 30328
E-mail: purchasing@sandyspringsga.gov

F. While the City has every intention to make an award as a result of this procurement, 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 following rights:

1. The City may cancel or terminate this RFP at any time. A notice of cancellation will be issued if the RFP is cancelled. Proposals may be returned upon request, if unopened.
2. The City will not reimburse any Offeror for preparation of its Proposal. Preparation of a Proposal is the Offeror's sole financial responsibility.
3. The City may reject any or all Proposals received, make a contract award based directly on the Proposals received in the best interest of the City, in its sole discretion, or enter into further discussions with one (1) or more Offerors;
4. Waive and/or amend any undesirable, inconsequential, or inconsistent provisions/specifications of this RFP which would not have significant impact on any Proposal:
5. Make partial award or no award if it is in the best interest of the City to do so; and
6. Terminate any contract if the City determines adequate funds are not available.

SECTION 9: CONTRACT INFORMATION

The form of service agreement ("Model Contract") the City intends to execute with the selected Consultant is included in this RFP as an Exhibit. Respondents are urged to read this Model Contract carefully prior to submitting a Proposal.

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 inquiry period shown in the Schedule of Events. The Procurement Officer 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 Proposal should not be submitted.

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

This RFP document, together with its addenda, amendments, attachments, modifications, Offeror's Proposal, 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 Proposal 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 service agreement (based on the Model Contract) with the City. Any Consultant beginning performance prior to the execution of a service agreement shall be deemed to be proceeding at Consultant'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 service agreement without cause, upon notice at least thirty (30) days' prior to the effective date of termination.

SECTION 10: ATTACHMENTS

ATTACHMENT A

Sample Model Contract



SANDY SPRINGS™
GEORGIA

AGREEMENT

This Agreement (“Agreement”) is made as of execution date by the City and between _____ (“Contractor”), located at _____ and the City of Sandy Springs, Georgia (“Sandy Springs”).

WITNESSETH:

WHEREAS, Contractor is engaged in the business of conducting and delivering a Sustainability Master Plan for the City that will include an inventory of current initiatives, a brief benchmarking study and an action plan outlining priorities, milestones and performance measures to meet the needs of current and future Sandy Springs residents; and

WHEREAS, Sandy Springs has a need to acquire a Sustainability Master Plan described in the Scope of Services and/or Contractor Proposal attached hereto as Exhibit A (“Services”); and

WHEREAS, Contractor is willing and able to render the Services and wishes to perform the Services for Sandy Springs; and

WHEREAS, Sandy Springs wishes to acquire the Services from Contractor;

NOW, THEREFORE, in consideration of the mutual terms, conditions and covenants set forth herein, the parties hereto agree as follows:

1. **Services.**

Contractor hereby agrees to render the Services to Sandy Springs as set forth in the Scope of Services and/or Contractor Proposal attached hereto as Exhibit A and incorporated herein by this reference. Contractor agrees to perform the Services at the direction of the project manager or designee, in the manner and to the extent required by the parties herein, as may be amended hereafter in writing by mutual agreement of the parties.

2. **Compensation.**

a. **Fee.** As consideration for the Services, Sandy Springs shall pay to Contractor the fee described in Exhibit B attached hereto and incorporated herein by this reference.

b. **Manner of Payment.** Contractor shall, on a monthly basis, prepare and submit to the Sandy Springs Finance Department an invoice, indicating work performed and approved and additional expenses incurred during the applicable time period, together with such supporting documentation as may be required by Sandy Springs. Each compliant invoice shall be paid within thirty (30) days after submission of an invoice.

3. **Relationship of Parties.**

a. **Independent Contractors.** Nothing contained herein shall be deemed to create any relationship other than that of independent contractor between Sandy Springs and Contractor. This Agreement shall not constitute, create, or otherwise imply an employment, joint venture, partnership, agency or similar arrangement between Sandy Springs and Contractor. It is expressly agreed that Contractor is acting as an independent contractor and not as an employee in providing the Services under this Agreement.

b. **Employee Benefits.** Contractor shall not be eligible for any benefit available to employees of Sandy Springs including, but not limited to, workers' compensation insurance, state disability insurance, unemployment insurance, group health and life insurance, vacation pay, sick pay, severance pay, bonus plans, pension plans, or savings plans.

c. **Payroll Taxes.** No income, social security, state disability or other federal or state payroll tax will be deducted from payments made to Contractor under this Agreement. Contractor shall be responsible for all FICA, federal and state withholding taxes and workers' compensation coverage for any individuals assigned to perform the Services for Sandy Springs.

4. **Term.**

This Agreement shall become effective as of the date of its execution, shall continue in effect until the completion of the work stated in Exhibit A, Scope of Services and/or Contractor Proposal. The term of the contract will be contingent upon annual appropriations of funds by the City of Sandy Springs City Council. The contract will terminate at the close of the project.

5. **Termination.**

Either party shall have the right to terminate this Agreement if the other party is in default of any obligation hereunder and such default is not cured within ten (10) days of receipt of a notice from the other party specifying such default. "Default" shall mean:

a. If Sandy Springs fails to make payments when due or fails to perform or observe any of its duties or obligations under the terms of this Agreement;

b. If Contractor fails to perform or observe any of its duties or obligations under the terms of this Agreement;

c. If Sandy Springs or Contractor shall have made any warranty or representation in connection with this Agreement which is found to have been false at the time such warranty or representation was made and is materially harmful to the other party.

d. This Agreement may also be terminated by either party by giving written notice thirty (30) days prior to the effective date of termination.

If this Agreement is terminated pursuant to this paragraph, Contractor shall be exclusively limited to receiving only compensation for the work performed and appropriately documented to and including the effective date identified in the written termination notice.

6. Termination of Services and Return of Property.

Upon the expiration or earlier termination of this Agreement, Contractor shall immediately terminate the Services hereunder and shall deliver promptly to Sandy Springs all property relating to the Services and any Work Product (as defined below), patents or copyrights covered by this Agreement. Work Product shall include, but not be limited to, all hardware and software, written, graphical, and recorded material, and any copies, abstracts or summaries thereof.

7. Standard of Performance and Compliance with Applicable Laws In the Service Agreement

Contractor warrants and represents that it possesses the special skill and professional competence, expertise and experience to undertake the Services and the obligations imposed by this Agreement. Contractor agrees to perform in a diligent, efficient, competent and skillful manner commensurate with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances, and to otherwise perform as in necessary to undertake the Services required by this Agreement, including the requirements set forth in the Certification of Contractor - Georgia Security and Immigration Compliance Act attached hereto as Exhibit C, in the Certification of Sponsor Drug Free Workplace attached hereto as Exhibit D, and in the Affidavit Verifying Status for City Public Benefit Application attached hereto as Exhibit E, Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1) attached hereto as Exhibit F, and agrees to execute and provide such certifications to Sandy Springs, which are incorporated into and made a part of this Agreement.

Contractor warrants and represents that it will, at all times, observe and comply with all federal, state, local and municipal ordinances, rules, regulations, relating to the provision of the Services to be provided by Contractor hereunder or which in any manner affect this Agreement.

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 the Notice to Contractors - Compliance with Title VI of the Civil Rights Act of 1964, attached hereto as Exhibit H and incorporated herein.

8. Conflicts of Interest.

Contractor warrants and represents that:

a. the Services to be performed hereunder will not create an actual or apparent conflict of interest with any other work it is currently performing; and

b. Contractor is not presently subject to any agreement with a competitor or with any other party that will prevent Contractor from performing in full accord with this Agreement; and

c. Contractor is not subject to any statute, regulation, ordinance or rule that will limit its ability to perform its obligations under this Agreement; and

d. Contractor shall be free to accept other work during the term hereof; provided, however, that such other work shall not interfere with the provision of Services hereunder.

9. Proprietary Information; Non-Solicitation.

Contractor acknowledges that it may have access to and become acquainted with confidential and other information proprietary to Sandy Springs including, but not limited to, information concerning Sandy Springs, its operations, customers, citizens, business and financial condition, as well as information with respect to which Contractor has an obligation to maintain confidentiality (collectively referred to herein as "Proprietary Information"). Contractor agrees not to disclose, directly or indirectly, to anyone or to use or to allow others to use, for any purpose whatsoever, any Proprietary Information of any type, whether or not designated confidential or proprietary, acquired in the course of performing under this Agreement. The obligations of Contractor under this section shall survive the termination of this Agreement.

10. Insurance and Indemnification.

Contractor shall indemnify the City, its officers, agents, servants and employees from and against any and all liability for damages, losses, or expenses to the extent caused by or resulting from the negligence, recklessness, or intentionally wrongful conduct of the Contractor or other persons employed or utilized by the Contractor in the Performance of the Contract.

During performance of this Agreement, Contractor 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.

Contractor 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. Contractor'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.

Contractor shall, in all solicitations or advertisements for employees placed by, or on behalf of Contractor, 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.

Contractor shall 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.

12. **Assignment.**

Contractor shall not assign this Agreement or the rights and obligations created herein without the prior express written consent of Sandy Springs. Any attempted assignment by Contractor without the prior express written approval of Sandy Springs may, at Sandy Springs' sole option, result in the termination of this Agreement without any notice to Contractor of such termination.

13. **Notices.**

All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally in hand, or when mailed by certified or registered mail, return receipt requested with proper postage prepaid, addressed to the appropriate party at the following address or such other address as may be given in writing to the parties:

If to Sandy Springs:

Andrea Surratt, City Manager
1 Galambos Way
Sandy Springs, Georgia 30328

With copy to:

Dan Lee, City Attorney
1 Galambos Way
Sandy Springs, Georgia 30328

If to Contractor:

With copy to:

14. **Governing Law and Consent to Jurisdiction.**

This Agreement is made and entered into in the State of Georgia and this Agreement and the rights and obligations of the parties hereto shall be governed by and construed according to the laws of the State of Georgia without giving effect to the principles of conflicts of laws. The Courts in Fulton County, Georgia shall have jurisdiction over any litigation arising out of this Agreement.

15. **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 constitute a waiver of any subsequent breach or violation of the same or other provision thereof.

16. **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 day's written notice to Sandy Springs of the claim and the intent to initiate a civil action.

17. **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, and enforceable in accordance with its terms.

18. **Entire Agreement.**

This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior discussions, representations and understandings, whether oral or written.

19. **Heading.**

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.

20. **Interpretation of Exhibits and Exclusion of External References.**

The provisions of the main body of this Agreement shall govern the relationship between the City and the Contractor. In the event of conflicts or inconsistencies between this Agreement and its exhibits and attachments, including, but not limited to, those provided by Contractor, the provisions of the main body of this Agreement shall control. Website links inserted by the Contractor into exhibits or attachments to this Agreement shall not govern, alter, control or otherwise affect the provisions of this Agreement and shall be of no force or effect in the construction or interpretation of this Agreement.

21. **Copyright, Trademark and Patent Indemnification.**

Contractor warrants it has the rights to use and license all products, software and services provided under this agreement. Contractor further agrees to defend and save harmless Sandy Springs against any claims brought by a third party including, without limitation, reasonable attorneys' fees and costs, arising out of or in connection with a claim that the Software, Products and Services used in the scope of this Agreement violated a third party's trademark, copyright or patent. Copyright, trademark and patent indemnification shall survive the termination, cancellation or expiration of this Agreement.

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

CITY OF SANDY SPRINGS, GEORGIA

By: _____
Andrea Surratt, City Manager

Date of Execution

ATTEST:

By: _____
City Clerk

(SEAL)

Approved as to Form:

By: _____
City Attorney

CONTRACTOR NAME

By: _____
Name: _____
Title: _____

Date of Execution

ATTEST:

By: _____
Secretary

(SEAL)

Witness

EXHIBITS

- EXHIBIT A** Scope of Services and/or Contractor Proposal
- EXHIBIT B** Cost Proposal
- EXHIBIT C** Certification of Contractor – Georgia Security and Immigration Compliance Act
- EXHIBIT D** Certification of Sponsor Drug-Free Workplace
- EXHIBIT E** Affidavit Verifying Status for City Public Benefit Application
- EXHIBIT F** Contractor Affidavit under O.C.G.A § 13-10-91(b) (1)
- EXHIBIT G** Insurance Requirements
- EXHIBIT H** Notice to Contractors Compliance with Title VI of the Civil Rights Act of 1964

EXHIBIT A

SCOPE OF SERVICES AND/OR CONTRACTOR PROPOSAL

EXHIBIT B
COST PROPOSAL

EXHIBIT C
TO CONTRACT AGREEMENT
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 D
CERTIFICATION OF SPONSOR
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:

Signature

Name: _____

Title: _____

EXHIBIT E
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. §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 O.C.G.A. §16-10-20.

Signature of Applicant: _____

Printed Name: _____

Date: _____

*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, this the _____ day of _____, 20__.

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 F

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. § 1310-91, 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 G

INSURANCE REQUIREMENTS

Within 10 days of Notice of Award, and at all times that this Agreement is in force, 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-6 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
1 Galambos Way
Sandy Springs, Georgia 30328.

EXHIBIT H

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.