



**SANDY SPRINGS™**  
GEORGIA

**INVITATION TO BID 20-060  
PAVEMENT CONDITION INDEX  
GUARDRAIL INSPECTION AND CLASSIFICATION  
STRIPING INSPECTIONS  
STREET SIGN INSPECTION**

**PRE BID  
WEBEX  
MAY 28, 2020, 10:00 A.M.  
MEETING NUMBER (ACCESS CODE): 628 061 523  
MEETING PASSWORD: 6789  
JOIN BY PHONE  
[+1-408-418-9388](tel:+14084189388) UNITED STATES TOLL**

**QUESTIONS DUE  
JUNE 1, 2020, 5:00 P.M.**

**BID DUE & BID OPENING:  
JUNE 8, 2020, 2:00 P.M.  
WEBEX  
JOIN BY PHONE  
[+1-408-418-9388](tel:+14084189388) UNITED STATES TOLL  
MEETING NUMBER (ACCESS CODE): 126 406 9882  
MEETING PASSWORD: 38452979 FROM PHONES**

**Bids shall only be accepted online through the Bonfire Portal at:**

**<https://sandysprings.bonfirehub.com/projects/view/24731>**

**Any proposal submitted in any other format (email, paper, fax, mail, etc.) will not be accepted for any reason.**

**GENERAL INFORMATION:**

- 1.** All communications regarding this solicitation must be with the assigned Procurement Agent, Delores Hill, [purchasing@sandyspringsga.gov](mailto: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/24731>  
Questions are due **no later than June 1, 2020 5:00 p.m.** 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 the

solicitation related to this solicitation will be posted on Bonfire website at <https://sandysprings.bonfirehub.com/projects/view/24731> It is the Offeror's responsibility to check the Bonfire portal for any addendum or other communications related to this solicitation.

4. The form of contract ("Model Contract") the City intends to execute with the selected contractor is included for your review.
5. The City of Sandy Springs reserves the right to reject all bids and to waive technicalities and informalities, and to make award in the best interest of the City of Sandy Springs.
6. The City of Sandy Springs is not responsible for any technical difficulties. It is highly recommended that all potential contractors submit their quotes prior to the due date of this solicitation.

## **TERMS & CONDITIONS**

1. 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.
2. 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.
3. No bid 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.
4. 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.
5. From the date this ITB is issued until a firm is selected, Offerors are not allowed to communicate with any staff or elected officials of the City regarding this solicitation, except at the direction of Delores Hill, 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:  
Delores Hill, Procurement Agent  
City of Sandy Springs  
1 Galambos Way  
Sandy Springs, Georgia 30328  
Email: [purchasing@sandyspringsga.gov](mailto:purchasing@sandyspringsga.gov)
6. While the City has every intention to make an award as a result of this solicitation, issuance of the ITB 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:

- a.** Cancel or terminate this ITB at any time. A notice of cancellation will be issued. If the ITB is cancelled, the City will not reimburse any Offeror for preparation of its Proposal. Proposals may be returned upon request if unopened;
- b.** 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;
- c.** Waive and/or amend any undesirable, inconsequential, or inconsistent provisions/specifications of this ITB which would not have significant impact on any Proposal;
- d.** Make partial award or no award if it is in the best interest of the City to do so; and
- e.** Terminate any contract if the City determines adequate funds are not available.

## **DEFINITIONS**

SSPWD: Sandy Springs Public Works Department

GDOT: Georgia Department of Transportation

ADA: Americans with Disabilities Act. The federal act that gives civil rights protections to the disabled similar to those provided to individuals based on race, color, sex, national origin, age and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services and telecommunications.

CONTRACT DOCUMENTS: Contract Agreement, General Conditions, Appendices, Special Provisions, Technical Specifications, Drawings and Plans, Bidding Documents, Exhibits

EA: Each

GAL: Gallon

LF: Lineal Feet

LS: Lump Sum

SY: Square Yard

TN: Ton

OWNER: City of Sandy Springs

Contractor: The Prime Contractor for the Construction

Project. DOL: U.S. Department of Labor

## SCOPE OF SERVICES

1. The City is requesting quotes for the performance of a **Pavement Condition Index** for the work described below. The City of Sandy Springs has approximately 302 miles of roadway. The roadways have been evaluated four times since the City's inception. The last evaluation was in the year 2018.
2. The consultant shall conduct a physical field evaluation of the 302 miles of locally owned roadway in the City of Sandy Springs which will include a rating of all road segments on a 0-100 scoring system of Pavement Condition Index (PCI) such as that utilized by the Georgia Department of Transportation or other equivalent grading system. The data gathered shall include at a minimum alligator cracking, block cracking corrugation, depression, edge cracking, longitudinal or transverse cracking, patching, potholes, rutting, shoving, swelling, general weathering, and raveling etc., or similar condition assessments. Recommendations shall be made as to which segments are suitable for simple resurfacing with patching, and which segments would qualify for full reclamation, compiled into four (4) individual budget recommendations as outlined below.

Budget 1 would indicate the necessary funding each year to maintain a 71 average PCI.

Budgets 2 and 3 to be provided by City staff at the time the report is under development.

Budget 4 would indicate the necessary funding each year to maintain a 71 average PCI utilizing all recognized methods of asphalt maintenance.

3. The data shall be presented in a format that can be manipulated by conventionally available software such as Microsoft access or excel, or other non-proprietary software. It shall also be able to be inputted into the Pavement Master and Street Master modules of the GBA/Lucity/GIS software which the City of Sandy Springs utilizes for its public works management system. The consultant should show a working knowledge of these modules to ensure that the data collected is useable and in the correct format including segments, sub-segments, and lane-widths, and any other pertinent information as it pertains to the GBA software.
4. A second requirement of this physical field evaluation of 302 miles of locally owned roadway shall be a guardrail inspect and classification. An inventory of guardrail shall be compiled including location and length, type, type of anchors, overall condition, and a ranking of upgrade/improvement projects shall be proposed. While it is not expected that any replacement guardrail will be designed by the consultant, it is requested that a cost estimate to the +/- 30% accuracy be included with the

guardrail upgrade/improvement suggestions and that recommendations be prioritized over a 5-year period with yearly milestones.

5. A third requirement of this physical field evaluation shall include a Pavement Marking (Roadway-Striping) Assessment of the 302 miles of locally controlled roadways to document the type and location of pavement markings and to rate its condition. A geo-database inventory of pavement markings shall be compiled including location, length, type (color, paint or thermoplastic), overall condition, and a ranking of upgrade/improvement projects shall be proposed. Turn and straight arrows, stop bars, crosswalks, sharrows, bike lane markings, and other special non-linear pavement markings shall be included. A planning level cost estimate shall be included with the pavement marking upgrade/improvement recommendations and prioritized over a 3-year period.
6. A fourth requirement of this physical field evaluation shall include a Sign Inventory of the 302 miles of locally controlled roadways to document the type and location of traffic control signs and to rate their condition. A geo-database inventory of signs shall be compiled including roadway name, location, sign legend (i.e. STOP, etc.), MUTCD designation (i.e. R-1, etc.), size, color, overall condition. Overhead signs and post mounted signs on the left shoulder shall be included and designated so as to set them apart. The consultant shall recommend sign upgrade/improvement projects. A planning level cost estimate shall be included with the sign upgrade/improvement recommendations and prioritized over a 3-year period.
7. Pictures of selected significant roadway segments, guardrail areas, roadway pavement markings, and street signs should be included in the field survey and data reported.
8. Consultant should include two presentations in their scope of work: one to senior City Management, and one during a City Council Meeting.
9. The selected contractor shall be able to start work within ten (10) calendar days after the "Notice to Proceed" is issued. **The time of completion for the project is sixty (60) calendar days from the date of the "Notice to Proceed."**
10. There is no City furnished equipment to be installed by the contractor.

## **BIDDING INSTRUCTIONS**

**Failure to submit the following bid documents may result in the bid being deemed non-responsive and the bid shall be rejected:**

City Bid Form  
City Qualification Signature and Certification Form  
Reference Form  
Contractor Proposal  
Fee Schedule  
Bid Price Certification  
Everify Affidavit under O.C.G.A. 13-10-91(b)(1)  
Addenda Acknowledgment  
Subcontractor List

**Upon award of contract the following items shall also be submitted:**

Certification of Sponsor Drug Free Workplace  
Georgia Security Immigration Compliance Act Affidavit  
Certificate of Insurance  
Notice to Contractors Compliance with Electrical Safety Provisions  
Affidavit verifying Status for City Public Benefit Application  
Corporate Certificate

**BID FORM**  
**(Bidder to sign and return)**

**TO: PURCHASING MANAGER**  
**CITY OF SANDY SPRINGS**  
**SANDY SPRINGS, GEORGIA 30350**

**Ladies and Gentlemen:**

In compliance with your Invitation To Bid, the undersigned, hereinafter termed the Bidder, proposes to enter into a Contract with the City of Sandy Springs, Georgia, to provide the necessary machinery, tools, apparatus, other means of construction, and all materials and labor specified in the Contract Documents or as necessary to complete the Work in the manner therein specified within the time specified, as therein set forth, for:

**ITB #20-060 - Pavement Condition Index**

The Bidder has carefully examined and fully understands the Contract, Specifications, and other documents hereto attached, has made a personal examination of the Site of the proposed Work, has satisfied himself as to the actual conditions and requirements of the Work, and hereby proposes and agrees that if his bid is accepted, he will contract with the City of Sandy Springs in full conformance with the Contract Documents.

The Bidder agrees that the cost of any work performed, materials furnished, services provided or expenses incurred, which are not specifically delineated in the Contract Documents but which are incidental to the scope, intent, and completion of the Contract, shall be deemed to have been included in the prices bid for the various items scheduled.

The Bidder further proposes and agrees hereby to promptly commence the Work with adequate forces and equipment within ten (10) calendar days from receipt of Notice to Proceed and to complete all Work within sixty days (60) from the initial Notice to Proceed.

The Bidder will be required to sign a "Notice of Intent" (NOI) as the "operator" prior to beginning construction. The Bidder shall be responsible for installing and maintaining the "Best Management Practices" (BMP's) throughout the term of the project. Upon completion and prior to final payment the Bidder will be required to sign a "Notice of Termination (NOT) upon final approval by COSS.

If this bid shall be accepted by the City of Sandy Springs and the undersigned shall fail to execute a satisfactory contract in the form of said proposed Contract, and give satisfactory Performance and Payment Bonds, or furnish satisfactory proof of carriage of the insurance required within ten days from the date of Notice of Award of the Contract, then the City of Sandy Springs may, at its option, determine that the undersigned abandoned the Contract and there upon this bid shall be null and void, and the sum stipulated in the attached Bid Bond or certified check shall be forfeited to the City of Sandy Springs as liquidated damages.

Bidder acknowledges receipt of the following addenda:

Addendum No.	Date Received
_____	_____
_____	_____
_____	_____
_____	_____

Bidder further declares that the full name and resident address of Bidder's Principal is as follows: Signed, sealed, and dated this \_\_\_\_\_ day of \_\_\_\_\_

Bidder \_\_\_\_\_  
Company Name

Seal

Bidder Mailing Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**QUALIFICATIONS SIGNATURE AND CERTIFICATION**

**(Bidder to sign and return)**

I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a proposal 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 proposal and certify that I am authorized to sign this proposal for the proposer. I further certify that the provisions of the Official Code of Georgia Annotated, Sections 45-10-20 et. seq., have not been violated and will not be violated in any respect.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

Print/Type Name \_\_\_\_\_

Email Address \_\_\_\_\_

Print/Type Company Name Here \_\_\_\_\_

**REQUEST FOR REFERENCES  
INVITATION TO BID #20-060  
Pavement Condition Index**

All references must be from customers for whom your company has provided projects completed in the **last five years of similar scope and services** as the specifications of Invitation to Bid #20-060 Paving Condition Index

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: \_\_\_\_\_

\_\_\_\_\_

## CONTRACTOR PROPOSAL

## FEE SCHEDULE

All expenses and cost direct or indirect shall be included within the Fee Schedule.

**PAVEMENT CONDITION INDEX** \$ \_\_\_\_\_

**GUARDRAIL INSPECTION AND CLASSIFICATION** \$ \_\_\_\_\_

**STRIPING INSPECTIONS** \$ \_\_\_\_\_

**STREET SIGN INSPECTION** \$ \_\_\_\_\_

**TOTAL** \$ \_\_\_\_\_

**BID PRICE CERTIFICATION**

In compliance with the attached Specification, the undersigned offers and agrees that if this Bid is accepted, by the City Council within one hundred and twenty (120) days of the date of Bid opening, that he will furnish any or all of the Items upon which Prices are quoted, at the Price set opposite each Item, delivered to the designated point(s) within the time specified in the Bid Schedule.

TOTAL BID PRICE: \_\_\_\_\_

TOTAL BID PRICE IN WORDS: \_\_\_\_\_

COMPANY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

PRINT / TYPE NAME: \_\_\_\_\_

**EVERIFY AFFIDAVIT**

**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: \_\_\_\_\_

**CONTRACTORS  
LIST OF SUBCONTRACTORS**

I do \_\_\_\_\_, do not \_\_\_\_\_, propose to subcontract some of the work on this project. I propose to Subcontract work to the following subcontractors:

Company Name:

---

**CONTRACT**



**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 Pavement Condition Index Guardrail Inspection and Classification Striping Inspections Street Sign Inspection; and

**WHEREAS**, Sandy Springs has a need to acquire the services described in the Scope of Service attached hereto as Exhibit A (hereafter “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 (“Project”). 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. The term of the contract will be one (1) base year and four (4) one-year renewal options, contingent upon annual appropriations of funds by the City of Sandy Springs City Council. The Contract shall terminate at the close of each calendar year, but will automatically renew absent any positive action by the City.

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 Agreement.

11. **Non-Discrimination.**

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  
30328

**With copy to:**

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

**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.

[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: \_\_\_\_\_  
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

- 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

#### SCOPE OF SERVICES

1. The City is requesting quotes for the performance of a **Pavement Condition Index** for the work described below. The City of Sandy Springs has approximately 302 miles of roadway. The roadways have been evaluated four times since the City's inception. The last evaluation was in the year 2018.
2. The consultant shall conduct a physical field evaluation of the 302 miles of locally owned roadway in the City of Sandy Springs which will include a rating of all road segments on a 0-100 scoring system of Pavement Condition Index (PCI) such as that utilized by the Georgia Department of Transportation or other equivalent grading system. The data gathered shall include at a minimum alligator cracking, block cracking corrugation, depression, edge cracking, longitudinal or transverse cracking, patching, potholes, rutting, shoving, swelling, general weathering, and raveling etc., or similar condition assessments. Recommendations shall be made as to which segments are suitable for simple resurfacing with patching, and which segments would qualify for full reclamation, compiled into four (4) individual budget recommendations as outlined below.  
Budget 1 would indicate the necessary funding each year to maintain a 71 average PCI.  
Budgets 2 and 3 to be provided by City staff at the time the report is under development.  
Budget 4 would indicate the necessary funding each year to maintain a 71 average PCI utilizing all recognized methods of asphalt maintenance.
3. The data shall be presented in a format that can be manipulated by conventionally available software such as Microsoft access or excel, or other non-proprietary software. It shall also be able to be inputted into the Pavement Master and Street Master modules of the GBA/Lucity/GIS software which the City of Sandy Springs utilizes for its public works management system. The consultant should show a working knowledge of these modules to ensure that the data collected is useable and in the correct format including segments, sub-segments, and lane-widths, and any other pertinent information as it pertains to the GBA software.
4. A second requirement of this physical field evaluation of 302 miles of locally owned roadway shall be a guardrail inspect and classification. An inventory of guardrail shall be compiled including location and length, type, type of anchors, overall condition, and a ranking of upgrade/improvement projects shall be proposed. While it is not expected that any

replacement guardrail will be designed by the consultant, it is requested that a cost estimate to the +/- 30% accuracy be included with the guardrail upgrade/improvement suggestions and that recommendations be prioritized over a 5-year period with yearly milestones.

5. A third requirement of this physical field evaluation shall include a Pavement Marking (Roadway-Striping) Assessment of the 302 miles of locally controlled roadways to document the type and location of pavement markings and to rate its condition. A geo-database inventory of pavement markings shall be compiled including location, length, type (color, paint or thermoplastic), overall condition, and a ranking of upgrade/improvement projects shall be proposed. Turn and straight arrows, stop bars, crosswalks, sharrows, bike lane markings, and other special non-linear pavement markings shall be included. A planning level cost estimate shall be included with the pavement marking upgrade/improvement recommendations and prioritized over a 3-year period.
6. A fourth requirement of this physical field evaluation shall include a Sign Inventory of the 302 miles of locally controlled roadways to document the type and location of traffic control signs and to rate their condition. A geo-database inventory of signs shall be compiled including roadway name, location, sign legend (i.e. STOP, etc.), MUTCD designation (i.e. R-1, etc.), size, color, overall condition. Overhead signs and post mounted signs on the left shoulder shall be included and designated so as to set them apart. The consultant shall recommend sign upgrade/improvement projects. A planning level cost estimate shall be included with the sign upgrade/improvement recommendations and prioritized over a 3-year period.
7. Pictures of selected significant roadway segments, guardrail areas, roadway pavement markings, and street signs should be included in the field survey and data reported.
8. Consultant should include two presentations in their scope of work: one to senior City Management, and one during a City Council Meeting.
9. The selected contractor shall be able to start work within ten (10) calendar days after the "Notice to Proceed" is issued. **The time of completion for the project is sixty (60) calendar days from the date of the "Notice to Proceed."**
10. There is no City furnished equipment to be installed by the contractor.

**EXHIBIT B**  
**COST PROPOSAL**

EXHIBIT C

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 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, 2010, 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 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, 2010].

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 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 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 Agreement 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 principal 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: \_\_\_\_\_ 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, 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. § 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 \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

## EXHIBIT G

### INSURANCE REQUIREMENTS

Within ten (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 and 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:

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.