

STATE OF GEORGIA

COUNTY OF FULTON

RIGHT OF ACCESS LICENSE AGREEMENT

This Right of Access Agreement ("License Agreement"), made and entered into this ____ day of June, 2022 (the "Effective Date"), by and between **Sandy Springs Conservancy, Inc.**, a Georgia non-profit corporation ("Licensee" or Sandy Springs Conservancy"), whose address for purposes of this License Agreement is 227 Sandy Springs Place, Suite D470, Atlanta, Georgia 30328 and **Fulton County, Georgia**, a political subdivision of the State of Georgia ("Licensor" or "County"), whose address for purpose of this License Agreement is 141 Pryor Street, SW, Atlanta, Georgia 30303.

WHEREAS, Licensor is the owner of those certain parcels of land in Fulton County, Georgia (collectively, the "Property"), commonly referred to as the Sandy Springs Branch of the Fulton County Library System (the "Sandy Springs Library") having a street address of 395 Mount Vernon Highway, NE, Sandy Springs, Georgia 30328, and more particularly described in Exhibit "A" attached hereto, and by this reference incorporated herein; and

WHEREAS, the Licensor utilizes the subject Property to provide Library Services for the residents of Fulton County; and

WHEREAS, the Sandy Springs Conservancy was established in 2001 in a grass-roots effort by citizens to preserve rapidly disappearing greenspace and recreation areas in Sandy Springs, and works to preserve and enhance parks, greenspace, and trails in the community to improve the health and quality of life of County citizens; and

WHEREAS, the Sandy Spring Conservancy has reached out to the County by offering to voluntarily perform various community projects from time-to-time to preserve, maintain, and enhance certain public spaces within the Sandy Springs, and in particular, certain spaces on the exterior grounds of the Sandy Springs Library; and

WHEREAS, the Fulton County Department of Real Estate and Asset Management ("DREAM") has determined that an access license agreement ("License Agreement") is needed to allow the Sandy Springs Conservancy to enter, after providing notice, onto the exterior grounds of the Sandy Springs Library for the purpose of performing or managing volunteer activities on the exterior grounds of the Property (each volunteer activity a "Project") after receiving the written approval of the identified Project from the Fulton County Manager or his designee; and

WHEREAS, the Board of Commissioners finds it to be in the best interest of its citizens for the County to enter into this License Agreement with the Sandy Springs Conservancy to grant this organization access to the exterior grounds of the Sandy

Springs Library to conduct community services Projects to preserve, maintain, remove or enhance such Property or appurtenances located thereon.

NOW THEREFORE, for and in consideration of the sum of **TEN DOLLARS (\$10.00)** and other good and valuable consideration, paid in hand, and as set forth in this License Agreement, the receipt and sufficiency of which are hereby acknowledged, and the mutual covenants and agreements contained in this License Agreement, the parties do hereby agree as follows:

1.

GRANT OF LICENSE

Licensor hereby grants to Licensee and its employees, agents, volunteers, contractors and subcontractors, and Licensee hereby accepts from Licensor, a license (hereinafter, the "License") as is detailed below in this License Agreement to use and access the exterior grounds of the Sandy Springs Library or other areas of the Property, from time-to-time, after notice, for the purposes hereinafter set forth in Paragraph 2 relating to Project(s).

2.

USE OF LICENSE/PROJECTS

At its sole cost, expense, risk and responsibility, Licensee shall be permitted to access and use the Property, at various time periods, to conduct a Project that has been approved by the County Manager or his designee, upon providing notice to Library Management/Director. For purposes of this License, the Sandy Springs Conservancy has sole discretion to choose the Project that it intends to offer to perform on the exterior grounds of the Sandy Springs Library. Once Licensee elects to offer its services, it shall then meet with DREAM and Library Management/Director to determine whether the selected Project is feasible and is in line with the County's goals or plans for the Sandy Springs Library. If DREAM and Library Management/Director agree that the proposed Project is acceptable, they will seek approval from the County Manager or his designee. Upon approval by the County Manager or designee, the Sandy Springs Conservancy may proceed with the work until completion. Upon completion, DREAM and Library Management/Director shall inspect the work and consult with the Sandy Springs Conservancy if additional volunteer services are need for the Project. If able, the Sandy Springs Conservancy will perform the services through its volunteer resources at its discretion. Nothing herein shall prevent DREAM and Library Management/Director from contributing materials they have on-hand to be used by the Sandy Springs Conservancy or its agents or volunteers to complete a particular Project.

3.

DURATION

The license is granted for a one (1) year period from its Effective Date and shall automatically renew for four (4) one (1) year terms on the anniversary of the Effective Date, unless terminated by either party. Either Party to this License Agreement may terminate it, for any reason, by providing the other Party thirty (30) days written notice.

4.

INTEREST

Licensee hereby acknowledges that by making, executing and delivering this License Agreement, Licensor does not confer upon Licensee any right, title, interest, or estate in the Property, nor confer upon Licensee a license coupled with an interest or an easement, and Licensee is estopped from claiming any such right, title, interest, estate, license coupled with an interest, or easement in the Properties.

5.

RESTORATION OF DAMAGE TO THE PROPERTIES

In the event that performance of a Project results in any damage to the Property, Licensee hereby agrees that within a reasonable time (not to exceed sixty (60) days, unless such task is not capable of completion within such period) following completion of the Project, Licensee will, at its sole cost and expense, take reasonable steps to restore the Property to substantially the same condition in which it existed prior to the commencement of the Project.

6.

ASSIGNMENT OR TRANSFER

This License Agreement and the License granted herein may not be assigned or transferred by Licensee unless approved in writing by Licensor. Licensor understands and agrees that Licensee will likely perform the work necessary to complete a Project with volunteers who may not be directly affiliated with it. Licensee covenants and agrees that any volunteer or other person performing services on behalf of Licensee at the Property for a Project shall execute a Waiver and Release in substantially the form attached hereto as Exhibit "B" before being allowed on the Property to work on any Project. Licensee shall promptly provide Licensor with copies of each Waiver and Release obtained for a Project, only upon request.

7.

LIABILITY

Licensee, as the requestor of said License, further agrees that, as per this License Agreement between Fulton County and the Sandy Springs Conservancy, Licensee shall be responsible for all costs and damages stemming from all claims, actions, damages, liability and expense from third-parties resulting solely from performance of work related to the Project, and shall, to the extent allowable by law, indemnify and hold harmless Fulton County from all claims, actions, damages, liability and expense, including without limitation reasonable attorneys' fees and costs, in connection with personal injury or property damage arising out of the acts or omissions of Licensee, its employees, agents or contractors upon the Properties or any property surrounding the Properties in conducting the Project. Notwithstanding anything to the contrary contained in this License Agreement, the Licensee's indemnity of Fulton County in this Section 7 shall not include any claim arising from the gross negligence or willful misconduct of the County or its employees, agents or contractors. Nothing herein shall be construed as a waiver of the County's sovereign immunity or any governmental immunity available to its officials, employees or agents.

If applicable, Licensee reserves the right to self-fund its workers' compensation, automobile liability and general and excess liability coverages for its activities on the Property or any property surrounding the Property in conducting the activities authorized by this License Agreement. Notwithstanding the foregoing, Licensee shall provide and maintain liability insurance covering its employees, agents or contractors for the duration of the License.

8.

NOTICES

All notices required herein shall be in writing and delivered to either party at the address contained herein by: (a) hand delivery at the aforementioned address; (b) United States Certified Mail - Return Receipt Requested, postage prepaid; or (c) Facsimile immediately followed by a confirmation call. The day upon which such notice is hand delivered, mailed, e-mailed or faxed shall be deemed the date of service of such notice.

To the Licensors:

Fulton County, Georgia
Department of Real Estate and Asset Management
141 Pryor Street, Suite 119
Atlanta, Georgia 30303
Attention: Director
Telephone: 404.612.3772

With a copy to:

Office of the County Attorney
141 Pryor Road SW, Suite 4038
Atlanta, Georgia 30303
Attention: County Attorney
Phone: 404.612.0246

To the Licensee:

Sandy Springs Conservancy
227 Sandy Springs Place Suite D470
Sandy Springs, Georgia 30328
Attention: Chairman

With a copy to:

Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309
Attention: Mark Moore, Esq.
Phone: 404.881.4954

9.

GENERAL PROVISIONS OF THIS AGREEMENT

- 9.1 The brief capitalized and underlined headings or titles preceding each paragraph are for purposes of identification, convenience and ease of reference, and shall be disregarded in the construction of this Agreement.
- 9.2 No failure of either party hereto to exercise any right or power granted under this License Agreement, or to insist upon strict compliance by the other party with this License Agreement, and terms and conditions of this License Agreement, shall constitute a waiver of either party's right to demand exact and strict compliance by the other party hereto with the terms and conditions of this License Agreement.
- 9.3 This License Agreement shall be governed by, construed under, performed and enforced in accordance with the laws of the State of Georgia.
- 9.4 Should any provision of this License Agreement require judicial interpretation, it is agreed and stipulated by and between the parties that the court interpreting or construing the same shall not apply a presumption that the terms, conditions, and provisions hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument is to be construed more strictly against the party who prepared the same.

- 9.5 This License Agreement may be executed in two (2) counterparts, each of which is deemed an original of equal dignity with the other and which is deemed one and the same instrument as the other. Electronic, facsimile or .pdf signatures shall have the same force and effect as original signatures. The parties hereto intend to be bound by the signatures on the electronic, facsimile or .pdf document, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the use of an electronic, facsimile or .pdf signature.
- 9.6 The termination of this License Agreement shall not operate to cut off any claims or causes of action in favor of Licensor or Licensee which occurred or arose prior to the effective date of such termination.
- 9.7 Licensee hereby acknowledges that it has not been induced by any representation, statements, or warranties by Licensor including, but not limited to, representations or warranties with respect to title to the Premises or the condition or suitability thereof for Licensee's purpose.
- 9.8 Licensee shall not place or store, nor permit to be placed or stored, any Hazardous Substances (as defined in 42 U.S.C. Sections 9601, et seq.), petroleum products or other pollutants, toxic substances or environmental hazards on or under the Properties.
- 9.9 This License Agreement supersedes all prior negotiations, discussions, statements and agreements between Licensor and Licensee and constitutes the full, complete and entire agreement between the parties with respect to the Property and Licensee's use thereof. No member, officer, employee, representative or agent of Licensor or Licensee has authority to make, or has made, any statement, agreement, representation or contemporaneous agreement, oral or written, in connection herewith, amending, supplementing, modifying, adding to, deleting from, or changing the terms and conditions of this License Agreement. No modification of or amendment to this License Agreement shall be binding on either party hereto unless such modification or amendment shall be properly authorized, in writing, properly signed by both Licensor and Licensee and incorporated in and by reference made a part hereof.
- 9.10 No Third-Party Beneficiaries. There are no third-party beneficiaries of this License Agreement and nothing in this License Agreement, express or implied, is intended to confer on any person other than the parties hereto (and their respective successors, heirs and permitted assigns), any rights, remedies, obligations or liabilities.

[Continued on Following Page]

IN WITNESS WHEREOF, Licensors and Licensee, acting by and through their duly authorized representatives, have caused these presents to be executed all as of the date hereinabove set forth.

LICENSOR:

FULTON COUNTY,
a political subdivision of the State of
Georgia

By: _____
Robert L. Pitts, Chairman

ATTEST:

By: _____
Tonya R. Grier
Clerk to the Commission

APPROVED AS TO FORM

By: _____
Y. Soo Jo, County Attorney

LICENSEE:

SANDY SPRINGS CONSERVANCY, a
Georgia non-profit corporation

By: _____
Name: Jack Misiura
Title: Chairman

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT "B"
WAIVER AND RELEASE