

**A RESOLUTION TO APPROVE AND AUTHORIZE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF DUNWOODY AND THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF GEORGIA FOR A TRANSPORTATION ENHANCEMENT PROJECT**

WHEREAS, The City of Dunwoody shall provide for the general health, safety and welfare of the inhabitants of the City; and

WHEREAS, The City has determined a need for capital improvements, detailed in the Memorandum of Understanding, attached hereto and incorporated herein by reference, through a transportation enhancement project in the City, in order to provide for the health, safety and welfare of the inhabitants of the City; and

WHEREAS, The Georgia Department of Transportation (Department) has expressed a desire grant certain funds directed towards the implementation of the transportation enhancement project, as detailed in the attached MOU with the Department; and

WHEREAS, The City desires to accept those certain funds from the Department in effecting the transportation enhancement project; and

WHEREAS, The Charter gives the City power to enter into contracts and agreements with other governments and with private persons, firms and corporations; and

WHEREAS, The Memorandum of Understanding between the City of Dunwoody and the Georgia Department of Transportation for a Transportation Enhancement Project has been reviewed.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Dunwoody and it is resolved by the Authority of said City Council that, by passage of this resolution, the Mayor and Council of the City of Dunwoody approve and authorize the Memorandum of Understanding attached hereto for a Transportation Enhancement Project between City of Dunwoody and the Georgia Department of Transportation and any subsequent documents necessary to effectuate the Transportation Enhancement Project for the City of Dunwoody.

SO RESOLVED AND EFFECTIVE, this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Approved:

\_\_\_\_\_  
Ken Wright, Mayor

Attest:

\_\_\_\_\_  
Sharon Lowery, City Clerk  
(Seal)



GENA L. ABRAHAM, Ph.D.  
COMMISSIONER  
(404) 656-5206

GERALD M. ROSS, P.E.  
CHIEF ENGINEER  
(404) 656-5277

Department of Transportation  
State of Georgia  
#2 Capitol Square, S.W.  
Atlanta, Georgia 30334-1002

BUDDY GRATTON, P.E.  
DEPUTY COMMISSIONER  
(404) 656-5212

EARL L. MAHFUZ  
TREASURER  
(404) 656-5224

July 11, 2008

Dear TE Sponsor:

Enclosed are three original copies of the Memorandum of Understanding (MOU) and one copy of the Internal Control Questionnaire (ICQ) for your selected TE project (s). Please take the following actions as described below:

- Have the MOUs signed by the appropriate signature authority;
- Complete the ICQ;
- Attach a copy of the most recent A-133 Audit.

Please return all of the information mentioned above to the TE Coordinator Carleton Fisher. He will then have the MOUs signed by Department Senior Management and return one fully executed copy to you for your records. Additionally, the Notice to Proceed with Preliminary Engineering will be issued. Funds expended and certified on this portion of the project may count toward the required 20% local match.

If you have any questions, please contact Carleton Fisher at (404) 631-1981 or the Special Projects Branch Chief Elaine Armster at (404) 631-1784.

Sincerely,

A handwritten signature in cursive script, reading "Angela T. Alexander".

Angela T. Alexander  
State Transportation Planning Administrator

ATA: ca

Enclosures

# **TRANSPORTATION ENHANCEMENT MEMORANDUM OF UNDERSTANDING**

BETWEEN

**THE GEORGIA DEPARTMENT OF TRANSPORTATION**

AND THE

**CITY OF DUNWOODY**

The City of Dunwoody, hereinafter called the "SPONSOR", and the Georgia Department of Transportation, hereinafter called the "DEPARTMENT",

RELATIVE TO

The SPONSOR assuming responsibility for tasks associated with Preliminary Engineering for project number CSTEE-0009-00(028), hereinafter called the "PROJECT".

WHEREAS the PROJECT is a Transportation Enhancement (TE) approved for Federal-Aid funds with a required local match of at least 20% of the PROJECT's Total Cost; and

I. IT IS THE INTENTION OF THE PARTIES:

That the SPONSOR fund 100% of the Preliminary Engineering for the PROJECT; and that the DEPARTMENT may apply said expenditure toward the SPONSOR'S local match of the PROJECT'S Total Cost, subject to the DEPARTMENT and the Federal Highway Administration's approval.

II. IT IS AGREED:

- A. That the SPONSOR certifies that local funds have been budgeted to undertake Preliminary Engineering for the PROJECT; and that an accounting system has been established to track project-specific Preliminary Engineering expenditures.
- B. That prior to construction of the PROJECT, the SPONSOR will certify, to the DEPARTMENT, the amount of eligible expended funds allowable toward the PROJECT'S Total Local Match.
- C. That if the PROJECT includes structures such as bridges or retaining walls, the SPONSOR will be required to use consultants pre-qualified with the DEPARTMENT.

III. IT IS AGREED:

- A. That construction funding will be dependent upon the SPONSOR receiving historical/environmental clearances through the DEPARTMENT; certifying existing or acquired Right-of-Way to the DEPARTMENT; producing a complete set of biddable construction plans meeting appropriate safety, access, and design standards;

and preparing and forwarding construction bid procedures and documents for the DEPARTMENT'S review.

- B. That nothing contained herein shall obligate the DEPARTMENT to proceed with subsequent stages of the PROJECT.
- C. That the SPONSOR'S expenditure prior to execution of an Agreement with the DEPARTMENT for construction of the PROJECT shall be at the sole cost and risk to the SPONSOR. Should the SPONSOR or the DEPARTMENT determine that for any reason the PROJECT is unable to enter subsequent stages, the DEPARTMENT is not responsible for reimbursement of local funds expended on the PROJECT.

IV. The SPONSOR shall be responsible for all costs for the continual maintenance and the continual operations of the project, including any and all sidewalks and the grass strip between the curb and gutter and the sidewalk, within the PROJECT limits.

V. The SPONSOR shall Certify that they have read and understands the regulations for "CERTIFICATION OF COMPLIANCES WITH FEDERAL PROCUREMENT REQUIREMENTS, STATE AUDIT REQUIREMENTS, AND FEDERAL AUDIT REQUIREMENTS" as stated in attachment A of this AGREEMENT and will comply in full with said provisions. If the SPONSOR fails to comply, the DEPARTMENT reserves the right to require reimbursement for any and all project expenses.

VI. The SPONSOR shall accomplish all of the design activities for the PROJECT. The design activities shall be accomplished in accordance with the DEPARTMENT's Plan Development Process, the applicable guidelines of the American Association of State Highway and Transportation Officials, hereinafter referred to as "AASHTO", the DEPARTMENT's Standard Specifications Construction of Transportation Systems, 2001 Edition, the DEPARTMENT's Plan Presentation Guide, PROJECT schedules, and applicable guidelines of the DEPARTMENT. The SPONSOR's responsibility for design shall include, but is not limited to the following items:

A. Prepare environmental studies, documentation, and reports for the PROJECT that show the PROJECT is in compliance with the provisions of the National Environmental Protection Act and Georgia Environmental Protection Act, as appropriate to the PROJECT funding. This shall include any and all archaeological, historical, ecological, air, noise, underground storage tanks (UST), and hazardous waste site studies required. The SPONSOR shall submit to the DEPARTMENT all environmental documents and reports for review and approval by the DEPARTMENT and the FHWA.

B. Perform all work required to obtain project permits, including, but not limited to, US Army Corps of Engineers 404 and Federal Emergency Management Agency (FEMA) approvals. These efforts shall be coordinated with the DEPARTMENT.

C. Prepare the PROJECT's drainage design including erosion control plans and the development of the hydraulic studies for the Federal Emergency Management Agency Floodways and acquisition of all necessary permits associated with the drainage design.

D. Provide certification, by a Georgia Registered Professional Engineer, that the construction plans have been prepared under the guidance of the professional engineer and are in accordance with AASHTO and DEPARTMENT guidelines.

E. Failure of the SPONSOR to follow the DEPARTMENT's Plan Development Process will jeopardize the use of Federal funds in some or all of the categories outlined

in this AGREEMENT, and it shall be the responsibility of the SPONSOR to make up the loss of that funding.

VII. All Primary Consultant firms hired by the SPONSOR to provide services on the PROJECT shall be prequalified with the DEPARTMENT in the appropriate area-classes.

VIII. The PROJECT construction and right of way plans shall be prepared in English units.

IX. The DEPARTMENT shall review and has approval authority for all aspects of the PROJECT. The DEPARTMENT will work with the FHWA to obtain all needed approvals with information furnished by the SPONSOR.

X. The SPONSOR shall be responsible for the design of all structure(s) and preparation of any required hydraulic and hydrological studies within the limits of this PROJECT in accordance with the DEPARTMENT's policies and guidelines. The SPONSOR shall perform all necessary survey efforts in order to complete the design of the structure (s) and prepare any required hydraulic and hydrological studies. The final structure plans shall be incorporated into this PROJECT as a part of this AGREEMENT.

XI. The SPONSOR shall follow the DEPARTMENT's procedures for identification of existing and proposed utility facilities on the PROJECT. These procedures, in part, require all requests for existing, proposed, or relocated facilities to flow through the DEPARTMENT's Project Liaison and the District Utilities Engineer.

XII. The SPONSOR shall address all railroad concerns, comments, and requirements to the satisfaction of the DEPARTMENT.

XIII. Upon the SPONSOR's determination of the rights of way required for the PROJECT and the approval of the right of way plans by the DEPARTMENT, the necessary rights of way for the PROJECT shall be acquired by the SPONSOR. Right of Way acquisition shall be in accordance with the law and the rules and regulations of the FHWA including, but not limited to, Title 23, United States Code; 23 CFR 710, et. seq., and 49 CFR Part 24, and the rules and regulations of the DEPARTMENT. Failure of the SPONSOR to follow these requirements may result in the loss of Federal funding for the PROJECT and it will be the responsibility of the SPONSOR to make up the loss of that funding. All required right of way shall be obtained and cleared of obstructions, including underground storage tanks, prior to advertising the PROJECT for bids. The SPONSOR shall further be responsible for making all changes to the approved right of way plans, as deemed necessary by the DEPARTMENT, for whatever reason, as needed to purchase the right of way or to match actual conditions encountered. The SPONSOR shall be responsible for certifying the Right of Way.

XIV. Upon completion and approval of the PROJECT plans and bid documents, the Department will authorize the SPONSOR to advertise the project for bids. The SPONSOR shall be solely responsible for advertising and awarding the construction contract (subject to the Department's recommendation) for the PROJECT.

XV. The SPONSOR shall review and make recommendations concerning all shop drawings prior to submission to the DEPARTMENT. The DEPARTMENT shall have final authority concerning all shop drawings.

XVI. The SPONSOR shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on behalf of the SPONSOR pursuant to this AGREEMENT. The SPONSOR shall correct or revise, or cause to be corrected or revised, any errors or deficiencies in the designs, drawings, specifications, and other services furnished for this PROJECT. Failure by the SPONSOR to address the errors or deficiencies within 30 days shall cause the SPONSOR to assume all responsibility for construction delays caused by the errors and deficiencies. All revisions shall be coordinated with the DEPARTMENT prior to issuance. The SPONSOR shall also be responsible for any claim, damage, loss or expense that is attributable to negligent acts, errors, or omissions related to the designs, drawings, specifications, and other services furnished by or on behalf of the SPONSOR pursuant to this AGREEMENT.

XVII. Both the SPONSOR and the DEPARTMENT hereby acknowledge that time is of the essence. The Sponsor shall have the project ready to bid within two years from the Date of Award of Funds.

XVIII. This AGREEMENT is made and entered into in FULTON COUNTY, Georgia, and shall be governed and construed under the laws of the State of Georgia. The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

XIX. IT IS AGREED:

- A. That the SPONSOR as the sub-recipient of Federal financial assistance will submit a copy of audited financial statements within 30 days of publication (in compliance with OMB Circular A-133), for all fiscal periods in which the Federal sub-grant funds are expended. GDOT reserves the right to take administrative action if the SPONSOR is unresponsive.

**Financial Statements will be submitted to:**

Office of Audits  
Financial Integrity Reporting Support Team  
600 West Peachtree Street  
Atlanta, Georgia 30308  
or  
first@dot.ga.gov

IN WITNESS WHEREOF, the DEPARTMENT and the SPONSOR have caused these presents to be executed under seal by their duly authorized representatives. The parties hereto have executed this Memorandum of Understanding, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

RECOMMENDED:

CITY OF DUNWOODY

\_\_\_\_\_  
State Transportation Planning Administrator

BY: \_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Director, Transportation Planning, Data &  
Intermodal Development Division

Signed, sealed and delivered this \_\_\_\_\_  
day of \_\_\_\_\_, 200\_\_, in the  
presence of:

\_\_\_\_\_  
Chief Engineer

\_\_\_\_\_  
Witness

DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
Notary Public

BY: \_\_\_\_\_  
Commissioner

This Agreement approved by the \_\_\_\_\_  
(SPONSOR) at a meeting held at

\_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

ATTEST:

\_\_\_\_\_  
Treasurer

\_\_\_\_\_  
City/County Clerk (as appropriate)

REVIEWED AS TO LEGAL FORM:

\_\_\_\_\_  
Office of Legal Services

FEIN: \_\_\_\_\_

## **ATTACHMENT A**

### **CERTIFICATION OF COMPLIANCES**

I hereby certify that I am a principle and duly authorized representative of \_\_\_\_\_ whose address is \_\_\_\_\_ and it is also certified that:

#### **I. PROCUREMENT REQUIREMENTS**

The below listed provisions of Federal Procurement requirements shall be complied with throughout the contract period:

- (a) 49 CFR Part 18 Section 36  
Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments – Procurement
- (b) 23 CFR 635 Subpart A – Contract Procedures

#### **II. STATE AUDIT REQUIREMENT**

The provisions of Section 36-81-7 of the Official Code of Georgia Annotated, relating to the "Requirement of Audits" shall be complied with throughout the contract period in full such that:

- (a) Each unit of local government having a population in excess of 1,500 persons or expenditures of \$ 300,000.00 or more shall provide for and cause to be made an annual audit of the financial affairs and transactions of all funds and activities of the local government for each fiscal year of the local government.
- (b) The governing authority of each local unit of government not included above shall provide for and cause to be made the audit required not less often than once every two fiscal years.
- (c) The governing authority of each local unit of government having expenditures of less than \$ 300,000.00 in that government's most recently ended fiscal year may elect to provide for and cause to be made, in lieu of the biennial audit, an annual report of agreed upon procedures for that fiscal year.
- (d) A copy of the report and any comments made by the state auditor shall be maintained as a public record for public inspection during the regular working hours at the principal office of the local government. Those units of local government not having a principal office shall provide a notification to the public as to the



location of and times during which the public may inspect the report.

- (e) The audits of each local government shall be conducted in accordance with generally accepted government auditing standards.

### III. FEDERAL AUDIT REQUIREMENT

The provisions of OMB Circular A-133 issued pursuant to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156 shall be complied with throughout the contract period in full such that:

- (a) Non-Federal entities that expend \$ 500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133.
- (b) Non-Federal entities that expend less than \$ 500,000 a year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).
- (c) Except for the provisions for biennial audits provided in paragraphs (1) and (2) below, audits required shall be performed annually. Any biennial audit shall cover both years within the biennial period.
  - (1) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits biennially. This requirement must still be in effect for the biennial period under audit.
  - (2) Any non-profit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits biennially.
- (d) The audit shall be conducted in accordance with Generally Accepted Government Auditing Standards.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**Georgia Department of Transportation  
Transportation Enhancement Activities**

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**Internal Control Questionnaire**

Sponsor Name \_\_\_\_\_

Completed By: Name \_\_\_\_\_ Title \_\_\_\_\_

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

	Yes	No	N/A	Comments
<b>Procurement Procedures</b>				
1. Has management received training relating to applicable State and Federal procurement requirements?	_____	_____	_____	_____ _____
2. Is there a written code of conduct (conflict of interest, gifts, etc.) for employees engaged in the award and administration of contracts?	_____	_____	_____	_____ _____
3. Are there written procedures for cost savings measures, such as intergovernmental agreements for procurement of common goods and services, use of Federal surplus property, and use of value engineering clauses?	_____	_____	_____	_____ _____ _____
4. Are there written procedures to ensure awards are made to responsible consultants and contractors possessing the ability to perform successfully under the terms and conditions of the contract?	_____	_____	_____	_____ _____ _____
5. Is the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis of the contract price documented?	_____	_____	_____	_____ _____
6. Are there written "protest" procedures for handling procurement disputes?	_____	_____	_____	_____ _____ _____
7. Are qualified personnel assigned to review and document the consultant's or contractor's	_____	_____	_____	_____ _____

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performance with the terms and conditions and specifications of the contract?

8. Are written procedures in place to conduct procurement transactions in a manner providing full and open competition?
9. If a non-competitive procurement method is used, is there documentation to justify limits to competition and cost effectiveness?
10. Are steps taken to solicit disadvantaged (small, minority, women's) business enterprises, and are good faith efforts to meet DBE goals documented?
11. Is bid analysis (comparison of the apparent low bid to an independent estimate and evaluation of unbalanced bid items) documented?
12. Is a qualified person designated to review contracts and subcontracts to ensure the inclusion of required provisions and clauses?
13. Do contracts for professional services contain a prohibition against contingent fees?
14. Are notices regarding false statements posted as required on Federal-aid highway projects?
15. Are personnel assigned to require contractors and subcontractors to submit certified payrolls and to monitor weekly submittals for Davis-Bacon compliance on projects linked to Federal-aid highways?
16. When using consultants for construction engineering, does the sponsor provide a full-time employee to be in responsible charge of the project?

