

April 23, 2015

**INTERGOVERNMENTAL AGREEMENT  
FOR BUNKY WAY STEAM REPAIR PROJECT BETWEEN  
DEKALB COUNTY, GEORGIA AND  
THE CITY OF DUNWOODY,  
GEORGIA**

**THIS INTERGOVERNMENTAL AGREEMENT is entered into by and between DeKalb County, Georgia ("County") and the City of Dunwoody, Georgia ("City").**

WHEREAS, the City desires to repair and stabilize a section of stream and the County has a sewer main in the geographical boundaries of the City along the east bank of that stream that is in danger of being compromised by the stream erosion; and

WHEREAS, the County and City desire to enter into an Intergovernmental Agreement to allow the repair and stabilization of the stream to share equally in the construction costs of the project per the terms of this Intergovernmental Agreement in order to accomplish the desired mutual goal; and

WHEREAS, the County and the City desire to maintain a mutually beneficial, efficient and cooperative relationship that will promote the interests of the citizens of both jurisdictions.

**NOW THEREFORE, in consideration of the following mutual obligations, the County and the City agree as follows:**

**Section 1.** The City has plans to repair and stabilize a section of stream from the culvert crossing at Bunky Way to 200 feet north. The City has completed a design attached, hereto as Exhibit A, and obtained the required permits for the stream bank repair. The County has a sewer main along the east bank of the creek that is in danger of being compromised by the stream erosion. As such the County has agreed to share equally in the construction cost of this project.

**Section 2.** After execution of this IGA, such bid shall be put together and issued by the City. Such bid shall provide project details, including oversight and cost, and include this Intergovernmental Agreement as an exhibit and require contractor's additional adherence to all applicable provisions herein. The City will, in accordance with the requirements of all applicable Federal, State, and local law and both the County and City's Purchasing Policies, award the winning bid and enter into a Contract with the winning bidder for the performance of the work, which will include adherence to the applicable terms of this IGA.

**Section 3.** The bid shall provide for construction as shown in the attached plans (which shall also be attached to the Bid and the final contract). The City shall be responsible for the cost of the design, bidding and oversight of the construction. The County shall approve the bid documents prior to the City's publication and release of the bid. The City will, in accordance with the requirements of all applicable Federal, State, and local law and both the County and City's Purchasing Policies, award the winning bid and enter into a Contract with the winning bidder for the performance of the work, which will include adherence to the applicable terms of this IGA. However, prior to entering a contract, the County shall provide the City with written authorization to accept the winning bid or in the alternative, at the County's sole discretion, it

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may reject all the bids.

**Section 4.** The City and County shall share equally in the cost of construction. The County shall, upon execution of the construction contract, pay to the City the first payment in the amount of one fourth of the total contract amount. Upon completion of the work, the County shall pay to the City another payment in the amount of one fourth of the total contract amount. Any changes to the work after the contract has been executed will require written approval of the County prior to any amendment of the contract by the City. At the completion of the project, the City and County agree to reconcile their respective costs so that each party shares equally in the final cost of the construction.

**Section 5.** The term of this Agreement shall begin upon execution of this IGA and shall continue for one year, with an automatic renewal for an additional year if the project delineated herein has not been completed and finalized. This Agreement may be terminated by either party up until final completion of the project, with at least ten (10) days written notice to the other party.

**Section 6.** All required notices shall be given by certified first class U.S. Mail, return receipt requested. The parties agree to give each other non binding duplicate facsimile notice. All notices sent to the addresses listed below shall be binding unless said address is changed in writing no less than fourteen (14) days before such notice is sent. Future changes in address shall be effective upon written notice being given by the City to the County Executive Assistant or by the County to the City Manager via certified first class U.S. mail, return receipt requested. Notices shall be addressed to the parties at the following addresses:

If to the County:                      Executive Assistant  
                                                  1300 Commerce Drive, 6<sup>th</sup> Floor  
                                                  Decatur, Georgia 30030  
                                                  (404) 371-4751, Facsimile Number

With a copy to:                      County Attorney  
                                                  1300 Commerce Drive, 5th Floor  
                                                  Decatur, Georgia 30030  
                                                  (404) 371-3024, Facsimile Number

If to the City:                      City Manager  
                                                  City of Dunwoody  
                                                  41 Perimeter Center East, Suite 250  
                                                  Dunwoody, Georgia 30346  
                                                  (678) 382-6701, Facsimile Number



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With a copy to:                      City Attorney  
                                                 City of Dunwoody  
                                                 41 Perimeter Center East, Suite 250  
                                                 Dunwoody, Georgia 30346  
                                                 (678) 382-6701, Facsimile Number

**Section 8.** This Agreement may be extended beyond the term delineated herein by mutual written consent of both parties so long as such extension is approved by official action of the City Council and approved by official action of the County governing authority, as indicated in Section 9 below.

**Section 9.** Neither party shall assign any of the obligations or benefits of this Agreement.

**Section 10.** This Agreement constitutes the sole contract between the City and the County. The terms, conditions, and requirements of this Agreement may not be modified, except by Amendment. No verbal agreement or conversation with any officer, agent, or employee of either the County or the City, either before or after the execution of the Contract, shall affect or modify any of the terms or obligations herein contained. No representations, oral or written, shall be binding on the parties unless expressly incorporated herein. No Amendment shall be enforceable unless approved by official action of the City and County as provided by law or in this Agreement.

**Section 11.** If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the state of Georgia without regard to conflicts of law principles thereof. Should any party institute suit concerning this Agreement, venue shall be in the Superior Court of DeKalb County, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof. If any provision of this Agreement, or any portion thereof, should be ruled void, invalid, unenforceable or contrary to public policy by any court of competent jurisdiction, then any remaining portion of such provision and all other provisions of this Agreement shall survive and be applied, and any invalid or unenforceable portion shall be construed or reformed to preserve as such of the original words, terms, purpose and intent as shall be permitted by law.

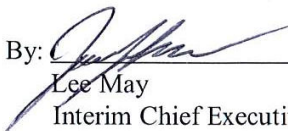
**Section 12.** This Agreement shall inure to the benefit of, and be binding upon the respective parties' successors.

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**Section 13.** This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

**IN WITNESS WHEREOF, DeKalb County and the City of Dunwoody have executed this Agreement through their duly authorized officers.**


**DEKALB COUNTY, GEORGIA**

By:   
 Lee May  
 Interim Chief Executive Officer  
 DeKalb County, Georgia


(SEAL)

6/16/15


**ATTEST:**

  
 BARBARA H. SANDERS, CCC  
 Clerk to the Board of Commissioners and  
 Chief Executive Officer  
 DeKalb County, Georgia

**APPROVED AS TO FORM:**

  
 Viviane H. Ernstes  
 Deputy County Attorney  
 DeKalb County,  
 Georgia

**APPROVED AS TO SUBSTANCE:**

  
 Charles Lambert  
 Interim Director of Watershed Management

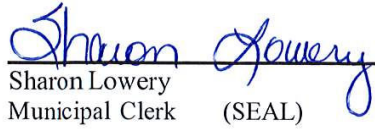
[SIGNATURES CONTINUED ON THE NEXT PAGE]

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**CITY OF DUNWOODY, GEORGIA**

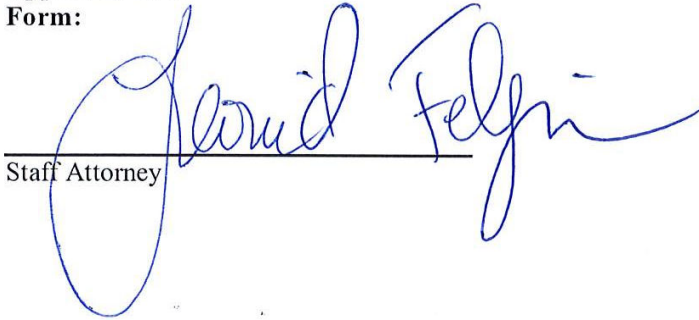


Michael G. Davis  
Mayor



Sharon Lowery  
Municipal Clerk (SEAL)

**Approved as to  
Form:**



Staff Attorney



