

MEMORANDUM

To: Mayor and City Council

From: Michael Smith, Public Works Director

Date: May 23, 2016

Subject: **Approval of an Intergovernmental Agreement with Sandy Springs for Pipe Replacement and Paving on Dunwoody Club Drive**

BACKGROUND

The city boundary between Sandy Springs and Dunwoody follows the centerline of Dunwoody Club Drive between Spalding Drive and Happy Hollow Road. The attached Intergovernmental Agreement (IGA) between Dunwoody and Sandy Springs provides for an equal cost share for replacing a storm drain pipe near Brooke Ridge Drive, crack sealing the previously paved section of Dunwoody Club Drive west of Mount Vernon Road and resurfacing the segment between Mount Vernon Road and Happy Hollow Road.

RECOMMENDED ACTION

Staff recommends approval of the Intergovernmental Agreement with Sandy Springs for pipe replacement, crack sealing and resurfacing on Dunwoody Club Drive.

INTERGOVERNMENTAL AGREEMENT
BY AND AMONG THE CITIES OF
DUNWOODY, GEORGIA AND
SANDY SPRINGS, GEORGIA
FOR STORM WATER PIPE REPAIRS AND PAVING ON DUNWOODY CLUB DRIVE
BETWEEN MOUNT VERNON ROAD AND HAPPY HOLLOW ROAD

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”), is entered into by and among the cities of Dunwoody and Sandy Springs, Georgia (collectively referred to herein as the “Participating Cities”), as of the 23rd day of May, 2016.

WHEREAS, the boundary line between the Participating Cities is acknowledged to be the centerline of Dunwoody Club Drive between Spalding Drive and Happy Hollow Road; and

WHEREAS, the Participating Cities are interested in collaborating to perform storm water repairs near the intersection of Brooke Ridge Drive and to resurface the section of Dunwoody Club Drive between Mount Vernon Road and Happy Hollow Road; and

WHEREAS, it is more cost effective and practical for the entire road to be paved in its entirety; and

WHEREAS, Art. 9, § 3, ¶ 1 of the Constitution of the State of Georgia provides that municipalities of the State of Georgia may contract with each other for any period not exceeding fifty (50) years for the provision of services or for the joint or separate use of facilities or equipment; and

WHEREAS, each of the Participating Cities desires to maintain a mutually beneficial, efficient and cooperative relationship that will promote the interests of the citizens of all jurisdictions; and

WHEREAS, each of the Participating Cities has authorized the execution of this Agreement through appropriate resolutions adopted by their governing bodies;

NOW, THEREFORE, in consideration of the following mutual obligations, the Participating Cities hereby agree as follows:

ARTICLE 1

PURPOSE AND INTENT

The purpose of this Agreement is to establish the intent of the Participating Cities jointly to perform storm water pipe repairs, pavement maintenance and resurfacing on Dunwoody Club Drive (the Project).

ARTICLE 2

WORK

The work will consist of replacement of a culvert located under Dunwoody Club Drive at the intersection of Brooke Ridge Drive. The existing pipe will be removed by excavation and replaced with 47 feet of 18" reinforced concrete pipe. In addition, a reinforced concrete headwall will be installed on the north side of Dunwoody Club Drive.

After replacement of the pipe, Dunwoody Club Drive will be resurfaced by milling 2 inches of asphalt and placing 2 inches of 12.5 mm Superpave asphalt with patching (as needed), striping and all required traffic control. All work shall be completed in accordance with Georgia Department of Transportation Standard Specifications (current edition).

Additionally crack sealing will be performed on the section of Dunwoody Club Drive between Spalding Drive and Mount Vernon Road.

ARTICLE 3

SPONSOR

Dunwoody will be the contracting agency (Sponsor) for the storm water pipe repairs and will utilize an existing unit price contract for storm water repair services. Both cities will obtain bids for paving in compliance with any applicable purchasing policies, resolutions and/or ordinances of each of the Participating Cities. The Sponsoring agency for the paving will be the city that obtains a competitive bid that is in the best interest of both cities. The sponsor will be responsible for contract administration and project management. Representatives from both participating cities shall be included on all project correspondence.

ARTICLE 4

FUNDING

- (a) The cost for the project will be shared equally by the Participating Cities. Payment shall be submitted within 30 days of completion of the work.

- (b) The Contract shall require that the winning bidder complete the project to the satisfaction of each respective City. If any Participating City is not satisfied, such City shall have the right to dispute its portion of the payment.

ARTICLE 5

TERM OF AGREEMENT

This Agreement shall commence upon execution by all parties to this Agreement and shall continue in effect until final completion of the project but not for a period of more than twelve (12) months.

ARTICLE 6

NON-ASSIGNABILITY

None of the Participating Cities shall assign any of the obligations or benefits of this Agreement without the mutual written consent by resolutions of the councils of all Participating Cities.

ARTICLE 7

ENTIRE AGREEMENT

The Participating Cities acknowledge, each one to each of the others, that the terms of this Agreement constitute the entire understanding and agreement of the Participating Cities regarding the subject matter of the Agreement.

ARTICLE 8

AMENDMENT

This Agreement may be modified at any time upon mutual written consent by resolutions of the councils of all Participating Cities.

ARTICLE 9

SEVERABILITY

If a court of competent jurisdiction renders any provision of this Agreement (or any 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 were not part of this Agreement.

ARTICLE 10

BINDING EFFECT

This Agreement shall inure to the benefit of, and be binding upon, the respective Participating Cities' successors, heirs and assigns.

ARTICLE 11

CONFLICT RESOLUTION

Both participating cities have the right to stop work upon providing Notice if the Project is not being performed to any standard specified by the participating cities. In such an event, if work is stopped, the Public Works Directors of the Participating Cities will resolve the conflict within 36 hours. If no agreement can be reached within the specified time period, the District 7 Engineer for the Department of Transportation shall be authorized to adjudicate the dispute. The adjudication process setfor herein shall not bar any Participating City to elect any other remedy allowed by law.

ARTICLE 11

INDEMNIFICATION

It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law. Only to the extent permitted by law, shall the City of Dunwoody defend, indemnify and hold harmless the City of Sandy Springs and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the City of Dunwoody or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the negligent performance of this Agreement by the City of Dunwoody, its employees, officers and agents. The City of Dunwoody shall promptly notify the City of Sandy Springs of each claim, cooperate with the City of Sandy Springs in the defense and resolution of each claim and not settle or otherwise dispose of the claim without the City of Sandy Springs' participation.

It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law. Only to the extent permitted by law, shall the City of Sandy Springs defend, indemnify and hold harmless the City of Dunwoody and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the City of Sandy Springs or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the negligent performance of this Agreement by the City of Sandy Springs, its employees, officers and agents. The City of Sandy Springs shall promptly notify the City of Dunwoody of each claim, cooperate with the City of Dunwoody in the defense and resolution of each claim and not settle or otherwise dispose of the claim without the City of Dunwoody's participation.

The indemnification provisions of this Agreement shall survive termination of this Agreement for any claims that may be filed after the termination date of the Agreement provided the claims are based upon actions that occurred during the term of this Agreement.

ARTICLE 12

COUNTERPARTS

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.

ARTICLE 13

GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of Georgia and proper venue for any actions arising out of this Agreement shall be Fulton or DeKalb County Superior Court.

ARTICLE 14

NOTICE

Notice may be given by a participating City or its attorney, or its Agent herein named, and shall be given by mail or by hand delivery to the following addresses:

If to the City of Dunwoody: Eric Linton, City Manager
41 Perimeter Center East
Suite 250
Dunwoody, Georgia 30346

With a Copy to:

Lenny Felgin, City Attorney
41 Perimeter Center East
Suite 250
Dunwoody, Georgia 30346

If to the City of Sandy Springs: John McDonough, City Manager
7840 Roswell Road
Building 500
Sandy Springs, Georgia 30350

With a Copy to:

Wendell K. Willard, City Attorney
Two Ravinia Drive
Suite 1360
Dunwoody, Georgia 30346

All notices are effective upon receipt. Any Participating City may change an address by giving written notice of said change of address to the other Participating Cities.

IN WITNESS WHEREOF, the Participating Cities have executed this Agreement through their duly authorized officers on the day and year first above written.

CITY OF DUNWOODY, GEORGIA

ATTEST:

Denis L. Shortal, Mayor

City Clerk

(SEAL)

Approved as to form:

Lenny Felgin, City Attorney

Eric Linton, City Manager

CITY OF SANDY SPRINGS, GEORGIA

ATTEST:

Rusty Paul, Mayor

City Clerk

(SEAL)

Approved as to form:

Wendell K. Willard, City Attorney

John McDonough, City Manager