



DeKalb County Government

Manuel J. Maloof Center
1300 Commerce Drive
Decatur, Georgia 30030

Agenda Item

File ID: 2018-1939

Substitute

5/8/2018

Public Hearing: YES NO

Department: Public Works - Transportation

SUBJECT:

Commission District(s): 1 and 7

Memorandum of Agreement with GDOT for Replacement of Mercer University Drive Bridge

Information Contact: David Pelton

Phone Number: 770-492-5206

PURPOSE:

To consider entering into a Memorandum of Understanding with the Georgia Department of Transportation (GDOT) for replacement of the Mercer University Drive bridge over North Fork Peachtree Creek;

To consider authorizing the payment to GDOT of up to \$205,000 as a county match for right-of-way acquisition costs; and

To consider authorizing the Chief Executive Officer to execute the necessary documents pertaining to this project.

NEED/IMPACT:

GDOT has a project to replace the existing county owned Mercer University Drive bridge over North Fork Peachtree Creek. GDOT is covering the full costs of design and construction, and at least half of the cost of right-of-way acquisition. The county share of the cost is half of the right-of-way acquisition cost up to \$205,000. On March 28, 2017, the Board of Commissioners approved an item in support of the funding approach now being formalized in the Memorandum of Agreement.

FISCAL IMPACT:

The maximum cost is \$205,000. The expected funding source is Transportation cost center 05415.

RECOMMENDATION:

To enter into a Memorandum of Agreement with the Georgia Department of Transportation (GDOT) for replacement of the Mercer University Drive bridge over North Fork Peachtree Creek;

To authorize the payment to GDOT of up to \$205,000 as a county match for right-of-way acquisition costs; and

To authorize the Chief Executive Officer to execute the necessary documents pertaining to this project.

**MEMORANDUM OF AGREEMENT
BY AND BETWEEN
GEORGIA DEPARTMENT OF TRANSPORTATION
AND
DEKALB COUNTY
FOR
RIGHT OF WAY**

This Memorandum of Agreement is made and entered into this ____ day of _____, 2018, by and between the GEORGIA DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia (hereinafter called the "DEPARTMENT" or "GDOT"), and DeKalb County, Georgia, acting by and through its Mayor and City Council or Board of Commissioners (hereinafter called the "LOCAL GOVERNMENT").

WHEREAS, PI No. 0015646 CR 3271 (MERCER UNIVERSITY DRIVE) AT NORTH FORK PEACHTREE CREEK (herinafter called "PROJECT") has been added to the Statewide Transportation Improvement Plan; and

WHEREAS, the DEPARTMENT policy requires, and the LOCAL GOVERNMENT has agreed, that the LOCAL GOVERNMENT shall fund a portion of the DEPARTMENT expenses associated with Right of Way Phase Funding (hereinafter called "Right of Way Phase") for the PROJECT; and

WHEREAS, the estimated amount for the Right of Way Phase is four hundred ten thousand dollars (\$410,000) ("Preliminary Right of Way Phase Estimate"); and

WHEREAS, the LOCAL GOVERNMENT has agreed to pay fifty percent (50%) of the Preliminary Right of Way Phase Estimate in the amount of two hundred five thousand dollars (\$205,000) to the DEPARTMENT within thirty (30) days of notification of this fully executed Agreement; and

WHEREAS, the Constitution authorizes intergovernmental agreements whereby state and local entities may contract with one another "for joint services, for the provision of services, or for the joint or separate use of facilities or equipment; but such contracts must deal with activities, services or facilities which the parties are authorized by law to undertake or provide." Ga. Constitution Article IX, §III, ¶1(a).

NOW THEREFORE, in consideration of the mutual promises made and of the benefits to flow from one to the other, the DEPARTMENT and the LOCAL GOVERNMENT hereby agree each with the other as follows:

1. PAYMENT BY THE LOCAL GOVERNMENT TO THE DEPARTMENT

- a. Subject to the provisions of this section, the LOCAL GOVERNMENT will be responsible for providing payment of fifty percent (50%) of the Preliminary Right

of Way Phase Estimate, or **two hundred five thousand dollars (\$205,000)** to the DEPARTMENT within thirty (30) days of notification of this fully executed Agreement.

- b. All payments by the LOCAL GOVERNMENT to the DEPARTMENT shall be sent to the following address:

For payments made by check:
Georgia Department of Transportation
P.O. Box 117138
Atlanta, GA 30368-7138

For payments made by ACH:
Bank Routing (ABA) # 021052053
Account # 43125093

- c. If there is an unused balance after completion of all tasks and phases of the PROJECT, then pending a final audit by the DEPARTMENT, the remainder will be refunded to the LOCAL GOVERNMENT.
- d. The DEPARTMENT will prepare Specific Activity Agreements for funding applicable to other PROJECT activities, such as right of way, utilities and construction phases, when appropriate.
- e. Both the LOCAL GOVERNMENT and the DEPARTMENT hereby acknowledge that Time is of the Essence.

If, for any reason, the LOCAL GOVERNMENT does not make payment to the DEPARTMENT pursuant to Paragraph 1 above, the DEPARTMENT reserves the right, where applicable, to delay or cancel the PROJECT.

2. **COMPLIANCE WITH APPLICABLE LAWS.**

- a. The undersigned, on behalf of the LOCAL GOVERNMENT, certifies that the provisions of Section 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated relating to Conflict of Interest and State employees and officials trading with the State have been complied with in full.
- b. 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, as stated in Appendix A of this Agreement.
- c. The LOCAL GOVERNMENT has read and understands the regulations for STATE AUDIT REQUIREMENT and will comply in full with said provisions of O.C.G.A. § 36-81-7.

- d. By execution of this Agreement, I, on behalf of the LOCAL GOVERNMENT, certify under penalty of law that the LOCAL GOVERNMENT is in compliance with the service delivery strategy law (O.C.G.A. Sec. 36-70-1 *et seq.*) and is not debarred from receiving financial assistance from the State of Georgia.
 - e. The LOCAL GOVERNMENT hereby agrees that it shall comply with all applicable requirements of the American with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101, *et seq.* and 49 U.S.C. 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791; and regulations and amendments thereto.
 - f. The LOCAL GOVERNMENT hereby agrees that it shall comply with Official Code of Georgia Annotated Title 25, Section 9, Georgia Utility Facility Protection Act, CALL BEFORE YOU DIG 1-800-282-7411.
 - g. Pursuant to O.C.G.A. § 13-10-91, the LOCAL GOVERNMENT is and shall be at all times, in compliance with the Federal Work Authorization Program.
 - h. The LOCAL GOVERNMENT hereby agrees that it shall not discriminate on the basis of age, race, color, sex, national origin, religion or disability and that it shall comply, at a minimum, with the following Georgia laws: the Georgia Age Discrimination Act (O.C.G.A. § 34-1-2 *et seq.*); the Georgia Equal Employment for Persons with Disabilities Code (O.C.G.A. 34-6A-1 *et seq.*); and the Sex Discrimination in Employment (O.C.G.A. 34-5-1 *et seq.*). The LOCAL GOVERNMENT further agrees that it will comply with any and all state and federal laws not specifically stated herein addressing discrimination to the extent that such is applicable.
 - i. LOCAL GOVERNMENT acknowledges and agrees that failure to complete appropriate certifications or the submission of a false certification shall result in the termination of this Agreement.
- 3. It is mutually agreed between the parties hereto that this Agreement shall be deemed to have been executed in Fulton County, Georgia, and that all questions of interpretation and construction shall be governed by the laws of the State of Georgia.
 - 4. 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.
 - 5. If any provision of this amendment is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent permitted by law and regulation.
 - 6. Nothing contained herein shall be construed as conferring upon or giving to any person, other than the parties hereto, any rights or benefits under or by reason of this Agreement.

7. The above "Whereas" clauses are hereby incorporated by reference as though fully set forth herein.
8. This Agreement supersedes all prior negotiations, discussion, statements and agreements between the parties and constitutes the full, complete and entire agreement between the Parties with respect hereto; no member, officer, employee or agent of either party 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 Agreement. No modification of or amendment to this Agreement will be binding on either Party hereto unless such modification or amendment will be properly authorized, in writing, properly signed by both Parties and incorporated in and by reference made a part hereof.

IN WITNESS WHEREOF, the parties hereto have set their hands and caused their seals to be affixed hereupon in three (3) counterparts, each to be considered as an original by their authorized representatives, on this ____ day of _____, 2018.

**GEORGIA DEPARTMENT OF
TRANSPORTATION**

DEKALB COUNTY, GEORGIA

Commissioner

by Dir.(SEAL)
MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

Date

Treasurer

ATTEST:

BARBARA SANDERS-NORWOOD, CCC,
CMC
Clerk of the Chief Executive Officer
And Board of Commissioners of
DeKalb County, Georgia

Date

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

Department Director

County Attorney Signature

SWORN AND SUBSCRIBED BEFORE ME
ON THIS ____ DAY OF _____, 2018

County Attorney Name (Typed or Printed)

Notary Public

58-6000814
Federal Employer Tax ID