09- R-2058

A RESOLUTION BY
CITY UTILITIES COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE A PROJECT FRAMEWORK AGREEMENT BETWEEN THE CITY OF ATLANTA AND THE GEORGIA DEPARTMENT OF TRANSPORTATION FOR DESIGN AND CONSTRUCTION SERVICES FOR THE DANFORTH ROAD SIDEWALK PROJECT; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta ("City") has represented to the Georgia Department of Transportation ("GDOT") a desire to construct the Danforth Road Sidewalk Project Number CM0000-00BK-00(042), PI No.762527, from New Hope Road, S.W. to Regency Center Drive, S.W.; and

WHEREAS, the City has represented to GDOT a desire to make Transportation Facility Improvements for bicycle and pedestrian use; and

WHEREAS, GDOT has expressed a willingness to participate in the funding for the construction phase of this transportation improvement project with funds appropriated to GDOT by the Federal Highway Administration, under Title 23, United States Code, Section 194, or a combination of funds from above; and

WHEREAS, GDOT has expressed a willingness to participate by funding Eighty percent (80%) of the construction of the project as set forth in the Project Framework Agreement ("PFA") for this project (attached hereto as Exhibit "A"); and

WHEREAS, GDOT has requested that the City participate in the construction of this project by funding One Hundred percent (100%) of design services, right of way costs, and utility relocation costs, directly related to the completion of this project as set forth in the PFA, and Twenty percent (20%) of the construction costs for this project.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES, that the Mayor is authorized to execute an appropriate Project Framework Agreement with the Georgia Department of Transportation for the design and construction of the Danforth Road Sidewalk project.

BE IT FINALLY RESOLVED, that the Project Framework Agreement will not become binding on the City and the City will incur no liability or obligation under it until has been executed by the Mayor, attested to by the Municipal Clerk, approved as to form by the City Attorney and delivered to the Georgia Department of Transportation

AGREEMENT

BETWEEN

DEPARTMENT OF TRANSPORTATION

STATE OF GEORGIA

AND

THE CITY OF ATLANTA

FOR

TRANSPORTATION FACILITY IMPROVEMENTS

This Framework Agreement is made and entered into this _____ day of _____, 20__, by and between the DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia, hereinafter called the "DEPARTMENT", and the **CITY OF ATLANTA,** acting by and through its Mayor and City Council or Board of Commissioners, hereinafter called the "LOCAL GOVERNMENT".

WHEREAS, the LOCAL GOVERNMENT has represented to the DEPARTMENT a desire to improve the transportation facility described in Attachment A, attached and incorporated herein by reference and hereinafter referred to as the "PROJECT"; and

WHEREAS, the LOCAL GOVERNMENT has represented to the DEPARTMENT a desire to participate in certain activities including the funding of certain poritions of the PROJECT and the DEPARTMENT has relied upon such representations; and

WHEREAS, the DEPARTMENT has expressed a willingness to participate in certain activities of the PROJECT as set forth in this 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, ¶I(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. The LOCAL GOVERNMENT shall by following the procedures in the DEPARTMENT's Local Administered Project Manual contribute to the PROJECT by funding all or certain portions of the PROJECT costs for the preconstruction engineering (design) activities, hereinafter referred to as "PE", reimburseable utility relocations, right of way acquisitions and construction, as specified in Attachment A, attached hereto and incorporated herein by reference. Expenditures incurred by the LOCAL GOVERNMENT prior to the execution of this AGREEMENT or subsequent funding agreements shall not be considered for reimbursement by the DEPARTMENT. PE expenditures incurred by the LOCAL GOVERNMENT after execution of this AGREEMENT shall be reimbursed by the DEPARTMENT once a written notice to proceed is given by the DEPARTMENT.

2. The DEPARTMENT shall contribute to the PROJECT by funding all or certain portions of the PROJECT costs for the PE, right of way acquisitions, utility relocations or construction as specified in Attachment A.

3. It is understood and agreed by the DEPARTMENT and the LOCAL GOVERNMENT that the funding portion as identified in Attachment "A" of this Agreement only applies to the PE. The Right of Way and Construction funding estimate levels as specified in Attachment "A" are provided herein for planning purposes and do not constitute a funding commitment for right of way and construction. The DEPARTMENT will prepare LOCAL GOVERNMENT Specific Activity Agreements for funding applicable to Right of Way or Construction when appropriate.

Further, the LOCAL GOVERNMENT shall be responsible for repayment of any expended federal funds if the PROJECT does not proceed forward to completion due to a lack of available funding in future PROJECT phases, changes in local priorities or cancelation of the PROJECT by the LOCAL GOVERNMENT without concurrence by the DEPARTMENT.

4. The LOCAL GOVERNMENT shall be responsible for all costs for the continual maintenance and operations of any and all sidewalks and the grass strip between the curb and gutter and the sidewalk within the PROJECT limits.

5. Both the LOCAL GOVERNMENT and the DEPARTMENT hereby acknowledge that Time is of the Essence. It is agreed that both parties shall adhere

to the schedule of activities currently established in the approved Transportation Improvement Program/State Transportation Improvement Program hereinafter referred to as "TIP/STIP". Furthermore, all parties shall adhere to the detailed project schedule as approved by the DEPARTMENT, attached as Attachment B and incorporated herein by reference. In the completion of respective commitments contained herein, if a change in the schedule is needed, the LOCAL GOVERNMENT shall notify the DEPARTMENT in writing of the proposed schedule change and the DEPARTMENT shall acknowledge the change through written response letter; provided that the DEPARTMENT shall have final authority for approving any change.

If, for any reason, the LOCAL GOVERNMENT does not produce acceptable deliverables in accordance with the approved schedule, the DEPARTMENT reserves the right to delay the PROJECT's implementation until funds can be re-identified for right of way or construction, as applicable.

6. The LOCAL GOVERNMENT shall certify that the regulations for "CERTIFICATION OF COMPLIANCES WITH FEDERAL PROCUREMENT REQUIREMENTS, STATE AUDIT REQUIREMENTS, and FEDERAL AUDIT REQUIREMENTS" are understood and will comply in full with said provisions.

7. The LOCAL GOVERNMENT shall accomplish the PE activities for the PROJECT. The PE activities shall be accomplished in accordance with the DEPARTMENT's Plan Development Process hereinafter referred to as "PDP", 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, and all applicable design guidelines and policies of the DEPARTMENT to produce a cost effective PROJECT. Failure to follow the PDP and all applicable guidelines and policies will jeopardize the use of Federal Funds in some or all categories outlined in this agreement, and it shall be the responsibility of the LOCAL GOVERNMENT to make up the loss of that funding. The LOCAL GOVERNMENT's responsibility for PE activities shall include, but is not limited to the following items:

a. Prepare the PROJECT Concept Report and Design Data Book in accordance with the format used by the DEPARTMENT. The concept for the PROJECT shall be developed to accommodate the future traffic volumes as generated by the LOCAL GOVERNMENT as provided for in paragraph 7b and approved by the DEPARTMENT. The concept report shall be approved by the DEPARTMENT prior to the LOCAL GOVERNMENT beginning further development of the PROJECT plans. It is recognized by the parties that the approved concept may be updated or modified by the LOCAL GOVERNMENT as required by the DEPARTMENT and re-approved by the DEPARTMENT during the course of PE due to updated guidelines, public input, environmental requirements, Value Engineering recommendations, utility conflicts, or right of way considerations.

b. Prepare a Traffic Study for the PROJECT that includes Average Daily Traffic, hereinafter referred to as "ADT", volumes for the base year (year the PROJECT is expected to be open to traffic) and design year (base year plus 20 years) along with Design Hour Volumes, hereinafter referred to as "DHV", for the design year. DHV includes morning (AM) and evening (PM)

peaks and other significant peak times. The Study shall show all through and turning movement volumes at intersections for the ADT and DHV volumes and shall indicate the percentage of trucks on the facility. The Study shall also include signal warrant evaluations for any additional proposed signals on the PROJECT.

c. Prepare environmental studies, documentation, reports and complete Environmental Document for the PROJECT along with all environmental re-evaluations required that show the PROJECT is in compliance with the provisions of the National Environmental Protection Act or the Georgia Environmental Protection Act as per the DEPARTMENT's Environmental Procedures Manual, as appropriate to the PROJECT funding. This shall include any and all archaeological, historical, ecological, air, noise, community involvement, environmental justice, flood plains, underground storage tanks, and hazardous waste site studies required. The completed Environmental Document approval shall occur prior to Right of Way funding authorization. A re-evaluation is required for any design change as described in Chapter 7 of the Environmental Procedures Manual. In addition, a re-evaluation document approval shall occur prior to any Federal funding authorizations if the latest approved document is more than 6 months old. The LOCAL GOVERNMENT shall submit to the DEPARTMENT all studies, documents and reports for review and approval by the DEPARTMENT, the FHWA and other environmental resource agencies. The LOCAL GOVERNMENT shall provide Environmental staff to attend all PROJECT related meetings where Environmental issues are discussed. Meetings

include, but are not limited to, concept, field plan reviews and value engineering studies.

d. Prepare all PROJECT public hearing and public information displays and conduct all required public hearings and public information meetings with appropriate staff in accordance with DEPARTMENT practice.

e. Perform all surveys, mapping, soil investigations and pavement evaluations needed for design of the PROJECT as per the appropriate DEPARTMENT Manual.

f. Perform all work required to obtain all applicable PROJECT permits, including, but not limited to, Cemetery, TVA and US Army Corps of Engineers permits, Stream Buffer Variances and Federal Emergency Management Agency (FEMA) approvals. The LOCAL GOVERNMENT shall provide all mitigation required for the project, including but not limited to permit related mitigation. All mitigation costs are considered PE costs. PROJECT permits and non-construction related mitigation must be obtained and completed 3 months prior to the scheduled let date. These efforts shall be coordinated with the DEPARTMENT.

g. Prepare the storm water drainage design for the PROJECT and any required hydraulic studies for FEMA Floodways within the PROJECT limits. Acquire of all necessary permits associated with the Hydraulic Study or drainage design.

h. Prepare, in English units, Preliminary Construction plans, Right of Way plans and Final Construction plans that include the appropriate sections listed in the Plan Presentation Guide, hereinafter referred to as

"PPG", for all phases of the PDP. The LOCAL GOVERNMENT shall further be responsible for making all revisions to the final right of way plans and construction plans, as deemed necessary by the DEPARTMENT, for whatever reason, as needed to acquire the right of way and construct the PROJECT.

i. Prepare PROJECT cost estimates for construction, Right of Way and Utility relocation along with a Benefit Cost, hereinafter referred to as "B/C ratio" at the following project stages: Concept, Preliminary Field Plan Review, Final Field Plan Review and Final Plan submission using the applicable method approved by the DEPARTMENT. The cost estimates and B/C ratio shall also be updated yearly if the noted project stages occur at a longer frequency. Failure of the LOCAL GOVERNMENT to provide timely and accurate cost estimates and B/C ratio may delay the PROJECT's implementation until additional funds can be identified for right of way or construction, as applicable.

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

k. Provide certification, by a Level II Certified Design Professional that the Erosion Control Plans have been prepared under the guidance of the certified professional in accordance with the current Georgia National Pollutant Discharge Elimination System.

l. Provide a written certification that all appropriate staff (employees and consultants) involved in the PROJECT have attended or are scheduled to attend the Department's PDP Training Course and Local Administered Project Traning. The written certification shall be received by the Department no later than the first day of February of every calendar year until all phases have been completed.

8. The Primary Consultant firm or subconsultants hired by the LOCAL GOVERNMENT to provide services on the PROJECT shall be prequalified with the DEPARTMENT in the appropriate area-classes. The DEPARTMENT shall, on request, furnish the LOCAL GOVERNMENT with a list of prequalified consultant firms in the appropriate area-classes. The LOCAL GOVERNMENT shall comply with all applicable state and federal regulations for the procurement of design services and in accordance with the Brooks Architect-Engineers Act of 1972, better known as the Brooks Act, for any consultant hired to perform work on the PROJECT.

9. All drafting and design work performed on the project shall be done utilizing Microstation and CAiCE software respectively, and shall be organized as per the DEPARTMENT's PPG and Electronic Data Guidelines.

10. The DEPARTMENT shall review and has approval authority for all aspects of the PROJECT provided however this review and approval does not relieve the LOCAL GOVERNMENT of its responsibilities under the terms of this agreement. The DEPARTMENT will work with the FHWA to obtain all needed

approvals as deemed necessary with information furnished by the LOCAL GOVERNMENT.

11. The LOCAL GOVERNMENT shall be responsible for the design of all bridge(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 LOCAL GOVERNMENT shall perform all necessary survey efforts in order to complete the hydraulic and hydrological studies and the design of the bridge(s). The final bridge plans shall be incorporated into this PROJECT as a part of this Agreement.

12. The LOCAL GOVERNMENT 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 Manager and the District Utilities Engineer and require any conflicts with the PROJECT be resolved by the LOCAL GOVERNMENT. If it is determined through the DEPARTMENT's Project Manager and Utility Office during the concept or design phases the need to utilize Subsurface Utility Engineering to locate existing utilities, the LOCAL GOVERNMENT shall be responsible for acquiring those services. Subsurface Utility Engineering costs are considered PE costs. The LOCAL GOVERNMENT shall certify that all Utility owners' exsiting and proposed facilities are shown on the plans with no conflicts are included in the plans 2 months prior to advertising the PROJECT for bids.

13. The LOCAL GOVERNMENT shall address all railroad concerns, comments, and requirements to the satisfaction of the DEPARTMENT.

14. The LOCAL GOVERNMENT shall be responsible for acquiring a Value Engineering Consultant for the DEPARTMENT to conduct a Value Engineering Study if the total estimated PROJECT cost is $10 million or more. The Value Engineering Study cost is considered a PE cost. The LOCAL GOVERNMENT shall provide project related design data and plans to be evaluated in the study along with appropriate staff to present and answer questions about the PROJECT to the study team. The LOCAL GOVERNMENT shall provide responses to the study recommendations indicating whether they will be implemented or not. If not, a valid response for not implementing shall be provided. Total project costs include PE, right of way, utility relocation and construction.

15. The LOCAL GOVERNMENT, unless shown otherwise on Attachment A, shall acquire the Right of way 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. Upon the DEPARTMENT's approval of the PROJECT right of way plans, verification that the approved environmental document is valid and current, a written notice to proceed will be provided by the DEPARTMENT for the LOCAL GOVERNMENT to stake the right of way and proceed with all pre-acquisition right of way activities. The LOCAL GOVERNEMENT shall not proceed to property negotiation and acquisition whether or not the right of way funding is Federal, State

or Local, until the right of way agreement named "Contract for the Acquisition of Right of Way" prepared by the DEPARTMENT's Office of Right of Way is executed between the LOCAL GOVERNMENT and the DEPARTMENT. Failure of the LOCAL GOVERNMENT to adhere to the provisions and requirements specified in the acquisition contract may result in the loss of Federal funding for the PROJECT and it will be the responsibility of the LOCAL GOVERNMENT to make up the loss of that funding. Right of way costs eligible for reimbursement include land and improvement costs, property damage values, relocation assistance expenses and contracted property management costs. Non reimbursable right of way costs include administrative expenses such as appraisal, consultant, attorney fees and any in-house property management or staff expenses. The LOCAL GOVERNMENT shall certify that all required right of way is obtained and cleared of obstructions, including underground storage tanks, 2 months prior to advertising the PROJECT for bids.

16. The DEPARTMENT unless otherwise shown in Attachment "A" shall be responsible for Letting the PROJECT to construction, solely responsible for executing any agreements with all applicable utility companies and securing and awarding the construction contract for the PROJECT when the following items have been completed and submitted by the LOCAL GOVERNMENT:

a. Submittal of acceptable PROJECT PE activity deliverables noted in this agreement.

b. Certification that all needed rights of way have been obtained and cleared of obstructions.

c. Certification that the environmental document is current and all needed permits and mitigation for the PROJECT have been obtained.

d. Certification that all Utility facilities, existing and proposed, within the PROJECT limits are shown and any conflicts have been resolved.

If the LOCAL GOVERNMENT is shown to LET the construction in Attachment "A", the LOCAL GOVERNMENT shall provide the above deliverables and certifications and shall follow the requirements stated in Chapter 10 of the DEPARTMENT"s Local Administered Project Manual.

17. The LOCAL GOVERNMENT shall provide a review and recommendation by the engineer of record concerning all shop drawings prior to the DEPARTMENT review and approval. The DEPARTMENT shall have final authority concerning all shop drawings.

18. The LOCAL GOVERNMENT agrees that all reports, plans, drawings, studies, specifications, estimates, maps, computations, computer files and printouts, and any other data prepared under the terms of this Agreement shall become the property of the DEPARTMENT if the PROJECT is being let by the DEPARTMENT. This data shall be organized, indexed, bound, and delivered to the DEPARTMENT no later than the advertisement of the PROJECT for letting. The DEPARTMENT shall have the right to use this material without restriction or limitation and without compensation to the LOCAL GOVERNMENT.

19. The LOCAL GOVERNMENT 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 LOCAL GOVERNMENT pursuant to this Agreement. The LOCAL GOVERNMENT 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 LOCAL GOVERNMENT to address the errors or deficiencies within 30 days shall cause the LOCAL GOVERNMENT 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 LOCAL GOVERNMENT shall also be responsible for any claim, damage, loss or expense, to the extent allowed by law that is attributable to errors, omissions, or negligent acts related to the designs, drawings, specifications, and other services furnished by or on behalf of the LOCAL GOVERNMENT pursuant to this Agreement.

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.

IN WITNESS WHEREOF, the DEPARTMENT and the LOCAL GOVERNMENT have caused these presents to be executed under seal by their duly authorized representatives.

DEPARTMENT OF TRANSPORTATION

BY: _____
Commissioner

ATTEST:

_____
Treasurer

REVIEWED AS TO LEGAL FORM:

_____
Office of Legal Services

THE CITY OF ATLANTA

BY:
_____
Name
Title

Signed, sealed and delivered this _____ day of _____, 20__, in the presence of:

_____
Witness

_____
Notary Public

This Agreement approved by the City of Atlanta, the _____day of _____, 20__.

Attest

_____
Name and Title

FEIN: _____

ATTACHMENT "A"

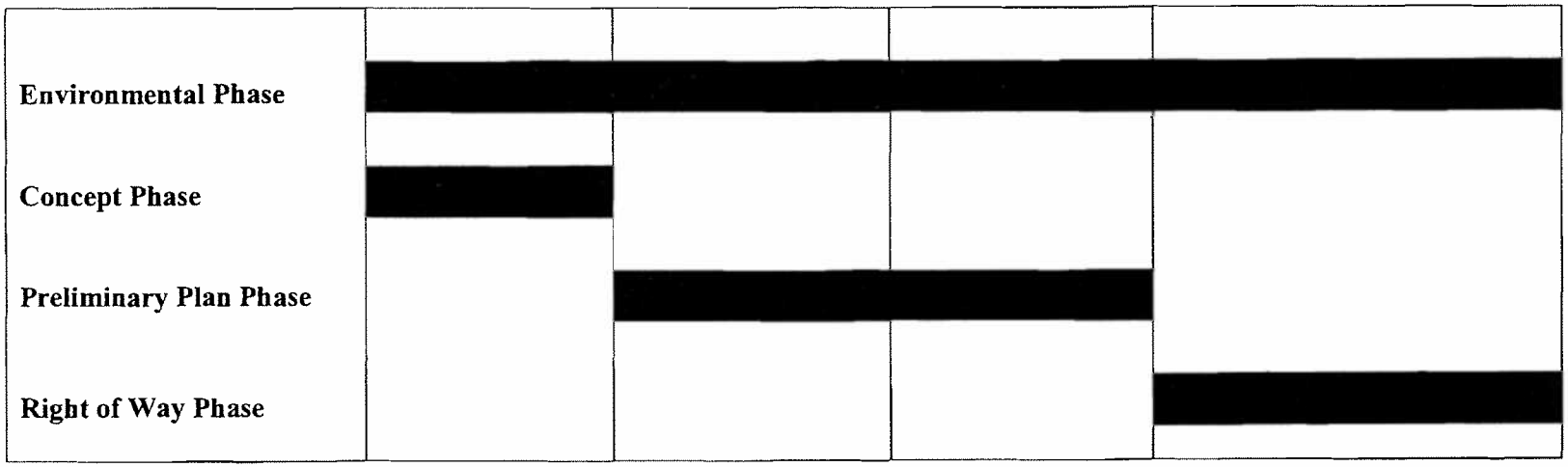
Project Number:CM000-00BK-00(042) – The City of Atlanta

Project	Work	Preliminary Engineering		Right of Way			Construction		Utility Relocation
(PI#, Project #, Description)	Type	Funding	PE Activity by	*Funding of Real Property	Acq. by	Acq. Fund by	*Funding	Letting by	Funding by
PI # 762527, CM000-00BK-00(042) CR 1393/DANFORTH RD FM NEW HOPE RD TO REGENCY CENTER DR.	SIDE WALKS	100% LOCAL GOV.	LOCAL GOV.	100% LOCAL GOV.	LOC. GOV.	LOC. GOV.	(80%) FEDERAL ($652,800) (20%) LCL GOV ($163,200) >($816,000) 100% Local Gov.	LOC. GOV.	LOCAL GOV.

Note: Maximum allowable GDOT participating amounts for PE category shall be shown above. Local Government will only be reimbursed the percentage of the accrued invoiced amounts up to but not to exceed the maximum amount indicated. *R/W and Construction amounts shown are estimates for budget planning purposes only.

ATTACHMENT "B"
762527 – The City of Atlanta

Proposed Project Schedule



Deadlines for Responsible Parties	Execute Agreement	Month/Year (Approve Concept)	Month/Year (Approve Env. Document)	Month/Year (Authorize Right of Way funds)	Month/Year (Authorize Const. funds)

Annual Reporting Requirements

The Local Government shall provide a written status report to the Department's Project Manager with the actual phase completion date(s) and the percent complete/proposed completion date of incomplete phases. The written status report shall be received by the Department no later than the first day of February of every calendar year until all phases have been completed.

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: City Utilities Committee

Caption: A RESOLUTION AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE A PROJECT FRAMEWORK AGREEMENT BETWEEN THE CITY OF ATLANTA AND THE GEORGIA DEPARTMENT OF TRANSPORTATION FOR DESIGN AND CONSTRUCTION SERVICES FOR THE DANFORTH ROAD SIDEWALK PROJECT; AND FOR OTHER PURPOSES.

Council Meeting Date: December 7, 2009

Requesting Dept.: Department of Public Works

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

The purpose of this legislation is to enter into a Project Framework Agreement with the Georgia Department of Transportation for design and construction services for the Danforth Road Sidewalk Project.

2. Please provide background information regarding this legislation.

3. If Applicable/Known:

(a) Contract Type (e.g. Professional Services, Construction Agreement, etc):

(b) Source Selection:

(c) Bids/Proposals Due:

(d) Invitations Issued:

(e) Number of Bids:

(f) Proposals Received:

(g) Bidders/Proponents:

(h) Term of Contract:

4. Fund Account Center:

5. Source of Funds:

6. Fiscal Impact:

7. Method of Cost Recovery:

This Legislative Request Form Was Prepared By:

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE **ATTN: GREG PRIDGEON**

Dept.'s Legislative Liaison: Soraya Belgrave

Contact Number: (404) 330-6002

Originating Department: Department of Public Works

Committee(s) of Purview: City Utilities Committee

Chief of Staff Deadline: November 17, 2009

Anticipated Committee Meeting Date(s): December 1, 2009

Anticipated Full Council Date: December 7, 2009

Legislative Counsel's Signature: Saul Schultz

Commissioner Signature:

Chief Procurement Officer Signature:

CAPTION

A RESOLUTION AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE A PROJECT FRAMEWORK AGREEMENT BETWEEN THE CITY OF ATLANTA AND THE GEORGIA DEPARTMENT OF TRANSPORTATION FOR DESIGN AND CONSTRUCTION SERVICES FOR THE DANFORTH ROAD SIDEWALK PROJECT; AND FOR OTHER PURPOSES.

Mayor's Staff Only

Received by CPO: _____ (date)

Received by LC from CPO: _____ (date)

Received by Mayor's Office: _____ (date)

Reviewed by: _____ (date)

Submitted to Council: _____