10- O -0746

AN ORDINANCE BY
FINANCE/EXECUTIVE COMMITTEE

AN ORDINANCE AMENDING THE 2010 (INTERGOVERNMENTAL GRANT FUND) BUDGET BY ADDING TO ANTICIPATIONS AND APPROPRIATIONS TRANSPORTATION ENHANCEMENT FUNDS IN THE AMOUNT OF ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS ($125,000.00) FOR THE PURPOSE OF FUNDING CONSTRUCTION EXPENSES FOR THE CASCADE MAYS STREETSCAPE PROJECT; AND FOR OTHER PURPOSES.

WHEREAS, through approval of this legislation, the City of Atlanta ("City") will enter into an Agreement with the Georgia Department of Transportation ("GDOT") for the purpose of funding the Cascade Mays Streetscape project; and

WHEREAS, the City desires to provide a safe and pedestrian friendly corridor accessible to the public; and

WHEREAS, GDOT initially appropriated Transportation Enhancement funds to provide eighty percent of the estimated project construction costs of the project for an amount not to exceed five hundred thousand dollars ($500,000.00) per ordinance 04-O-1054; and

WHEREAS, the City initially agreed to fund twenty percent of the estimated construction costs totaling one hundred twenty five thousand dollars ($125,000.00) out of a total projected construction budget of six hundred twenty five thousand dollars ($625,000.00) for the project with Transportation Impact Fees, Quality of Life Bond Funds, and other sources; and

WHEREAS, the project has now been approved as eligible and certified for funds under the American Recovery and Reinvestment Act ("ARRA"), and GDOT will provide and shall be responsible for one hundred percent (100%) of the total cost of this project not to exceed the federal contribution in an amount up to six hundred twenty five thousand dollars ($625,000.00) of the estimated construction costs; and

WHEREAS, ARRA funding will no longer require a 20% contribution by the City to the project, unless the project construction costs exceed six hundred twenty five thousand dollars ($625,000.00),

WHEREAS, the City has agreed to be responsible for all costs, if necessary, exceeding the federal contribution amount of six hundred twenty five thousand dollars ($625,000.00) with Transportation Impact Fees, Quality of Life Bond funds and/or other sources; and

WHEREAS, projects must be fully funded prior to the reimbursement from GDOT in order to execute contracts for construction; and

WHEREAS, the Transportation Enhancement Funds now totaling $625,000.00 have been approved and committed to the City through GDOT and ARRA.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: That the Mayor is authorized to accept the following grant which will add to the anticipations in the 2010 (Intergovernmental Grant Fund) Budget, Department of Public Works and that such budget is hereby amended as follows:

	ADD TO ANTICIPATIONS
2501	Intergovernmental Grant Fund
130308	DPW Transportation Design
1**	Task
3******	GRANT/ENTITLEMENTS
4270000	Traffic Engineering
13100818	Cascade/Mays Streetscape
4****	

$125,000.00

	ADD TO APPROPRIATIONS
2501	Intergovernmental Grant Fund
130308	DPW Transportation Design
1**	Task
5999999	Projects & Grants
4270000	Traffic Engineering
13100818	Cascade/Mays Streetscape
4****	

$125,000.00

SECTION 2: That the funds will be used in combination with the U.S. Transportation Program as administered by the Georgia Department of Transportation.

SECTION 3: The Mayor is authorized to enter into a contract for the construction of the project listed in this ordinance.

SECTION 4: That all ordinances and parts of ordinances in conflict herewith are repealed.

AGREEMENT
for
TRANSPORTATION ENHANCEMENT ACTIVITIES
between
DEPARTMENT OF TRANSPORTATION
STATE OF GEORGIA
and the
CITY OF ATLANTA

THIS AGREEMENT, made and entered into this _____ day of _____, 200__, by and between the DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia, hereinafter referred to as the "DEPARTMENT", and **City of Atlanta**, hereinafter referred to as the "SPONSOR".

WHEREAS, the SPONSOR has been approved by the DEPARTMENT to carry out a Transportation Enhancement Activity which consists of: **Project TEE-0006-00(570), P.I. No. 0006570, Fulton County,** hereinafter referred to as the "PROJECT"; and

WHEREAS, the DEPARTMENT is authorized to receive federal funding for Transportation Enhancement Activities for Georgia pursuant to provisions of Title 23, Chapter2, Subchapter 1, Section 133; and

WHEREAS, the PROJECT is expected to positively impact the quality of transportation in the State of Georgia; and

WHEREAS, the DEPARTMENT desires to financially participate with the SPONSOR in the implementation of the PROJECT; and

WHEREAS, the SPONSOR has represented to the DEPARTMENT that it has the authority to receive and expend federal funds for the purpose of this PROJECT and is qualified and experienced to provide such services necessary for the construction of the PROJECT and the DEPARTMENT has relied upon such representations; and

WHEREAS, under Section 32-2-2(a)(7) of the Official Code of Georgia Annotated, the DEPARTMENT is authorized to participate in such an undertaking.

NOW, THEREFORE, the DEPARTMENT and the SPONSOR, both governmental entities of the State of Georgia, pursuant to Article IX, Section III, Paragraph I(a) of the Georgia Constitution of 1983, and in consideration of the mutual promises and covenant contained herein, do hereby agree as follows:

ARTICLE I
SCOPE AND PROCEDURE

The SCOPE AND PROCEDURE for this PROJECT shall be: **Construction of Cascade-Mays Streetscape**, as set forth in Exhibit A, WORK PLAN, which is attached hereto and incorporated as if fully set out herein. The scope of work is further defined by the PROJECT design and construction plans ("PROJECT PLANS") on file with the DEPARTMENT and the SPONSOR and referenced as if attached hereto and incorporated as if fully set out herein.

The SPONSOR shall be responsible for assuring that the PROJECT will be economically feasible and based upon sound engineering principles, meet American Association of State Highway and Transportation Officials ("AASHTO") Guidelines and will be sensitive to ecological, environmental and archeological issues.

The WORK PLAN sets out the scope of work for the PROJECT. It is understood and agreed that the DEPARTMENT shall participate only in the PROJECT as specified in Exhibit A, WORK PLAN.

During the development of the PROJECT the SPONSOR has taken into consideration, as applicable, the DEPARTMENT's "Standard Specifications for the Construction of Transportation Systems", 2001 Edition; ***"Supplemental Specifications Book", current edition;*** AASHTO standards for bicycle facilities; FHWA guidelines for pedestrian facilities; compliance with the Americans with Disabilities Act of 1990; compliance with the U.S. Secretary of the Interior "Standards and Guidelines, Archaeology and Historic Preservation"; compliance with Section 106 of the National Historic Preservation Act of 1966 and with Section 4(f) of the US DOT Act of 1966; compliance with the Archaeology and Historic Preservation Act of 1974; compliance with the Archaeological Resources Protection Act of 1979 and with the Native American Graves Protection and Repatriation Act, the Georgia Abandoned Cemeteries and Burial Grounds Act of 1991; compliance with the DEPARTMENT's Scenic Byways Designation and Management Program, and with the American Society of Landscape Architect Guidelines; compliance with the Outdoor Advertising Requirements as outlined in the Official Code of Georgia Annotated, Section 32-6-70 et.seq. and other standards and guidelines as may be applicable to the PROJECT.

Upon 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 Public Law 91-646, the Uniform Relocation Assistance and Real Properties Policies Act of 1970, as amended, 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. The SPONSOR further acknowledges that no acquisition of rights of way shall proceed until all applicable archaeological, environmental and historical preservation clearances have been approved.

The SPONSOR shall ensure that all contracts as well as any subcontracts for implementation of the PROJECT shall comply with the Federal and State legal requirements imposed on the DEPARTMENT and any amendments thereto. The SPONSOR is required and does agree to abide by those provisions governing the DEPARTMENT's authority to contract, specifically, but not limited to Sections 32-2-60 through 32-2-77 of the Official Code of Georgia Annotated; the DEPARTMENT's Rules and Regulations governing the Prequalification of Prospective Bidders, Chapter 672-5; and the DEPARTMENT's "Standard Specifications", 2001 Edition; ***"Supplemental Specifications Book", current edition;*** and any Supplemental Specifications and Special Provisions as applicable for the PROJECT, **including, but not limited to, Special Provisions listed in Attachment E.**

The SPONSOR further agrees to comply with and shall require the compliance and physical incorporation of Federal Form FHWA-1273 into all contracts or subcontracts for construction.

ARTICLE II
TIME OF PERFORMANCE

TIME IS OF THE ESSENCE IN THIS AGREEMENT. The SPONSOR shall perform its responsibilities for the PROJECT, commencing on receipt of written "Notice to Proceed" from the DEPARTMENT, and shall complete the PROJECT no later than **December 31, 2011. No work on any phase shall begin without a written notice to proceed from the DEPARTMENT.**

The work shall be carried on expeditiously, it being understood, however, that this Agreement may be extended or continued in force by mutual consent of the parties and evidenced by a written amendment thereto.

ARTICLE III
CONTINGENT INTEREST

The DEPARTMENT shall retain a contingent interest in the PROJECT for as long as there continues a Federal interest in the PROJECT as determined by the DEPARTMENT's calculation of the economic life of the PROJECT. Should the work under the Agreement include Federal monies for purchase of real property, the Federal interest, and therefore the DEPARTMENT's contingent interest, shall be perpetual and recorded as described below. Based on the scope of work, as set forth in Exhibit A, WORK PLAN AND APPLICABLE PHASE, the DEPARTMENT has determined the economic life of the PROJECT to be **Five (5)** years from the date of PROJECT Final Acceptance.

Upon any sale or disposition of the PROJECT or the filing of an application for abandonment of the PROJECT under United States Code (U.S.C.) Title 49 Chapter 109 of all or any part of the PROJECT, the SPONSOR shall repay immediately in full to the DEPARTMENT an amount equal to the Federal Share of the funds involved in the improvement or rehabilitation of such part, segment or entirety of the PROJECT under this Agreement, said Federal Share to be determined in accordance with the DEPARTMENT's determination of the fair market value of the PROJECT at the time of disposition.

The term "any sale or disposition" as used in this Article shall mean any sale, abandonment, or disposition (1) for use not consistent with the purposes for which the Federal Share was originally granted pursuant to the Agreement, or (2) for a use consistent with such purposes wherein the transferee in the sale or disposition does not enter into an assignment and assumption agreement with the owner with respect to the owner's obligation thereunder as if the transferee had been the original owner thereof.

Upon completion of the PROJECT, the SPONSOR shall record in the appropriate land records, if applicable, in a form mutually agreeable to the parties hereto, a notice reciting that the property was improved with Federal assistance under this Agreement and that its use and disposition are subject to the terms of this Agreement. Verification of compliance with this paragraph shall be provided to the DEPARTMENT.

ARTICLE IV
COVENANTS AGAINST CONTINGENT FEES

The SPONSOR shall comply with all relevant requirements of all Federal, State and local laws. The SPONSOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the SPONSOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the SPONSOR, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the DEPARTMENT shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

ARTICLE V
EMPLOYMENT OF DEPARTMENT'S PERSONNEL

The SPONSOR shall not employ any person or persons in the employ of the DEPARTMENT for any work required by the terms of this Agreement, without the written permission of the DEPARTMENT except as may otherwise be provided for herein.

ARTICLE VI
REVIEW OF WORK

Authorized representatives of the DEPARTMENT and the Federal Highway Administration, ("FHWA"), may at all reasonable times review and inspect the activities and data collected under the terms of this Agreement and any amendments thereto, including but not limited to, all reports, drawing, studies, specifications, estimates, maps and computations prepared by or for the SPONSOR. The DEPARTMENT reserves the right for reviews and acceptance on the part of affected public agencies, railroads and utilities insofar as the interest of each is concerned.

Acceptance shall not relieve the SPONSOR of its professional obligation to correct, at its expense, any of its errors in the work. The DEPARTMENT's review recommendations shall be incorporated into the work activities of the SPONSOR.

The SPONSOR shall keep accurate records in a manner approved by the DEPARTMENT with regard to the use of the property and submit to the DEPARTMENT upon request, such information as is required in order to ensure compliance with this ARTICLE.

ARTICLE VII
RESPONSIBILITY FOR CLAIMS AND LIABILITY

The SPONSOR shall be responsible for any and all damages to property or persons and shall indemnify and save harmless the DEPARTMENT, its officers, agents and employees from all suits, claims, actions or damages of any nature whatsoever resulting from the negligence of the SPONSOR in the performance of work under this Agreement.

It is understood by the SPONSOR that claims, damages, losses and expenses may include monetary claims made by the construction contractor for the PROJECT, and its related facilities, that are a result of the SPONSOR's negligence or improper representation in the plans.

The SPONSOR shall require that the provisions of this Article are included in all contracts and subcontracts.

These indemnities shall not be limited by reason of any insurance coverage held by the SPONSOR or the SPONSOR's contractors or subcontractors.

ARTICLE VIII
COMPENSATION AND PAYMENT

It is agreed that the compensation hereinafter specified includes both direct and indirect costs chargeable to the PROJECT under generally accepted accounting principles and as allowed in the Federal Acquisition Regulations Subpart 31.6, and not prohibited by the Laws of the State of Georgia.

The estimated cost of the project is **Six Hundred Twenty-Five Thousand** and No/100 Dollars (**$625,000.00**). The DEPARTMENT shall be responsible for one hundred percent (100%) of the total cost of the Construction of the project not to exceed the federal contribution. The SPONSOR shall be responsible for all cost exceeding the DEPARTMENT's contribution.

	Federal	Local	Total
Construction	**$625,000**	**$0.00**	**$625,000**

The total federal contribution for this PROJECT is **Six Hundred Twenty-Five Thousand** and No/100 Dollars (**$625,000.00**) and is the maximum amount of the DEPARTMENT's obligation. The SPONSOR shall be solely responsible for any and all amounts in excess of the maximum amount of the DEPARTMENT's obligation.

Prior to award of the project the SPONSOR shall submit to the DEPARTMENT a bid tabulation, the low bidders DBE goal sheet and their recommendation for awarding the project. The DEPARTMENT will review the information and issue a written recommendation to award or reject the bids. If a recommendation to award is given by the DEPARTMENT a written Notice to Proceed with Construction will be issued. No work shall begin until this Notice to Proceed has been issued.

The SPONSOR shall coordinate right of way activities with the DEPARTMENT's District Right of Way Engineer and construction activities with the DEPARTMENT's Area Engineer. In the event the SPONSOR, Right of Way Engineer, or Area Engineer recommend changes representing a fundamental departure from the PROJECT's approved Work Plan, the changes shall be reviewed by the DEPARTMENT's Project Manager. If the changes are approved, the DEPARTMENT's Project Manager shall prepare a supplemental agreement to amend the Agreement's Work Plan.

The SPONSOR shall submit to the DEPARTMENT monthly reports of the PROJECT's progress including: monthly accomplishments; further work to be done and any problems encountered or anticipated. Payment shall be made monthly on the basis of calendar months, in proportion to the percentage of work completed for each phase of work and after approval of a certified voucher from the SPONSOR. Should the work for the PROJECT begin within any one month, the first voucher shall cover the partial period from the beginning date of the work through the last day of that month. The vouchers shall be numbered consecutively and submitted each month until work on the PROJECT is completed.

Payment shall be made in the amount of sums earned less previous partial payments. The final invoice shall reflect the actual cost of work accomplished by the SPONSOR and shall be the basis for final payment. The final invoice shall include all eligible cost incurred by the SPONSOR for **Construction only**. Final payment will be made at one hundred (**100**) percent of the final invoice amount not to exceed the total federal contribution.

Should the DEPARTMENT, pursuant to the provisions of ARTICLE XIV, terminate the work under this agreement, the SPONSOR shall be paid for the percentage of work completed at the point of termination, notwithstanding any just claims by the SPONSOR.

ARTICLE IX
FINAL PAYMENT

IT IS FURTHER AGREED that upon completion and acceptance of the work by the SPONSOR, the SPONSOR shall submit to the DEPARTMENT ***the "Sponsor's Certification of Right of Way Acquisition form, if necessary, and "Sponsor's Certification of Final Acceptance"*** **form,** and the final invoice. The DEPARTMENT shall process the final invoice report initiating the DEPARTMENT's project close-out procedures. Whereupon the DEPARTMENT shall pay to the SPONSOR a sum equal to one hundred percent (100%) of the total compensation as set forth in ARTICLE VIII, herein, and consistent with all approved invoices, less the total of all previous partial payments, paid or in the process of payment.

The SPONSOR agrees that acceptance of this final payment shall be in full and final settlement of all claims arising against the DEPARTMENT for work done, materials furnished, costs incurred, or otherwise arising out of this Agreement and shall release the DEPARTMENT from any and all further claims of whatever nature, whether known or unknown, for and on account of said Agreement, and for any and all work done, and labor and materials furnished in connection with the same.

The SPONSOR shall allow the examination and verification of costs by the DEPARTMENT's representatives, in accordance with the provisions of Article XII, herein. If the DEPARTMENT's examination of the contract cost records, as provided for in Article XII, results in unallowable expenses, the SPONSOR shall immediately be responsible for reimbursing the DEPARTMENT the full amount of such disallowed expenses.

ARTICLE X
RIGHT OF FIRST REFUSAL

A determination by the SPONSOR to sell or dispose of the PROJECT shall entitle the DEPARTMENT to the right of first refusal to purchase or lease the PROJECT at net liquidation value. Such right of first refusal shall be retained for as long as the DEPARTMENT holds a contingent interest in the PROJECT pursuant to Article III of this Agreement.

Should the DEPARTMENT elect to purchase or lease the PROJECT at any time after completion of the PROJECT no compensation shall be provided for the value added as a result of the PROJECT.

ARTICLE XI
SUBSTANTIAL CHANGES

No material changes in the scope, character, complexity or duration of the PROJECT from those required under the Agreement shall be allowed without the execution of a Supplemental Agreement between the DEPARTMENT and SPONSOR.

Minor changes in the work which do not involve increased compensation, extensions of time or changes in the goals and objectives of the PROJECT, may be made by written notification of such change by either party with written approval by the other party.

ARTICLE XII
MAINTENANCE OF CONTRACT COST RECORDS

The SPONSOR shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the PROJECT, inclusive of a job cost or project cost report, and used in support of its proposal and shall make such material available at all reasonable times during the period of the Agreement and for three years from the date of final payment under this Agreement, for inspection by the DEPARTMENT, and any reviewing agencies, and copies thereof shall be furnished upon request. The SPONSOR agrees that the provisions of this Article shall be included in any contracts it may make with any subcontractor, assignee or transferee.

ARTICLE XIII
SUBLETTING, ASSIGNMENT OR TRANSFER

It is understood by the parties to this Agreement that the work of the SPONSOR is considered personal by the DEPARTMENT. The SPONSOR agrees not to assign, sublet or transfer any or all of its interest in this Agreement without prior written approval of the DEPARTMENT.

The DEPARTMENT reserves the right to review all subcontracts prepared in connection with the Agreement, and the SPONSOR agrees that it shall submit to the DEPARTMENT any proposed subcontract documents together with subcontractor cost estimates for review and written concurrence of the DEPARTMENT in advance of their execution.

All subcontracts in the amount of $10,000.00 or more shall include the provisions set forth in this Agreement.

ARTICLE XIV
TERMINATION

The DEPARTMENT reserves the right to terminate this Agreement at any time for any reason, with or without cause upon thirty (30) days written notice to the SPONSOR, notwithstanding any just claims by the SPONSOR for payment for services rendered prior to the date of termination.

It is understood by the parties hereto that should the DEPARTMENT terminate this Agreement prior to the completion of an element of work the SPONSOR shall be reimbursed for such work element based upon the percentage of work completed.

Failure to meet the time set out for completion of an approved work authorization, may be considered just cause for termination of the Agreement.

ARTICLE XV
OWNERSHIP OF DOCUMENTS

The SPONSOR agrees that all reports, drawings, studies, specifications, survey notes, estimates, maps, computations, computer diskettes and printouts and other data prepared by or for it under the terms of this Agreement shall be delivered to, become and remain the property of the DEPARTMENT upon termination or completion of the work. The DEPARTMENT shall have the right to use the same without restriction or limitation and without additional compensation to the SPONSOR other than that provided for in this Agreement.

ARTICLE XVI
PUBLICATION AND PUBLICITY

Articles, papers, bulletins, data, studies, statistics, interim or final reports, oral transmittals or any other materials reporting the plans, progress, analyses, results, or findings of work conducted under this Agreement shall not be presented publicly or published without prior written approval by the DEPARTMENT.

IT IS FURTHER AGREED that all releases of information, findings, and recommendations shall include a disclaimer provision and that all published reports shall include that disclaimer on the cover and title page in the following form:

> "The contents in this publication reflect the views of the author(s), who is (are) responsible for the facts and accuracy of the data presented herein. The opinions, findings, and conclusions in this publication are those of the author(s) and do not necessarily reflect the official views or policies of those of the Department of Transportation, State of Georgia or the Federal Highway Administration. This publication does not constitute a standard, specification or regulation."

IT IS FURTHER AGREED that if any information concerning the PROJECT, its conduct, results or data gathered or processed should be released by the SPONSOR without prior approval from the DEPARTMENT, the release of same shall constitute grounds for termination of this Agreement without indemnity to the SPONSOR; but should any such information be released by the DEPARTMENT, or by the SPONSOR with such prior written approval, the same shall be regarded as public information and no longer subject to the restrictions of this Agreement.

Provided, however, that should the release of such information be required under the Georgia Open Records Act, Section 50-18-70, et.seq., O.C.G.A., the restrictions and penalties set forth herein shall not apply. Any request for information directed to the SPONSOR, pursuant to the Georgia Open Records Act, for documents that are either received or maintained by the SPONSOR in the performance of a service or function for or on behalf of the DEPARTMENT shall be released pursuant to provisions of the Act. Further, the SPONSOR agrees to consult with the DEPARTMENT prior to releasing the requested documents.

ARTICLE XVII
COPYRIGHTING

The SPONSOR shall be prohibited from copyrighting the final reports or copyrighting any papers, interim reports, forms or other material which are a part of the work under this Agreement, without written approval from the DEPARTMENT. The DEPARTMENT reserves the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish, use and authorize others to use, the work prepared under this Agreement.

ARTICLE XVIII
CONTRACT DISPUTES

This Agreement shall be deemed to have been executed in Fulton County, Georgia, and all questions of interpretation and construction shall be governed by the laws of the State of Georgia.

ARTICLE XIX
INSURANCE

Prior to beginning work, the SPONSOR shall obtain and where applicable cause its contractors and subcontractors to obtain and furnish certificates to the DEPARTMENT for the following minimum amounts of insurance:

(1) Workman's Compensation Insurance in accordance with the laws of the State of Georgia.

(2) Public Liability Insurance in an amount of not less than one hundred thousand dollars ($100,000.00) for injuries, including those resulting in death to any one person, and in an amount of not less than three hundred thousand dollars ($300,000.00) on account of any one occurrence.

(3) Property Damage Insurance in an amount of not less than fifty thousand dollars ($50,000.00) from damages on account of any occurrence, with an aggregate limit of one hundred thousand dollars ($100,000.00).

(4) Valuable Papers Insurance in an amount sufficient to assure the restoration of any plans, drawings, field notes, or other similar data relating to the work covered by the PROJECT.

Insurance shall be maintained in full force and effect during the life of the Agreement and until final completion of the PROJECT.

ARTICLE XX
COMPLIANCE WITH APPLICABLE LAW

A. IT IS FURTHER CERTIFIED that the SPONSOR has read and understands the regulations for "CERTIFICATION OF COMPLIANCES WITH FEDERAL PROCUREMENT REQUIREMENTS, STATE AUDIT REQUIREMENT, AND FEDERAL AUDIT REQUIREMENTS" as stated in Attachment A of this Agreement and will comply in full with said provisions.

B. IT IS FURTHER CERTIFIED that the SPONSOR has read and understands 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" as stated in Attachment B of this Agreement and will comply in full with said provisions.

C. IT IS FURTHER CERTIFIED that the SPONSOR has read and understands the provisions of the "Sponsor Certification Regarding Debarment, Suspension and Other Responsibility Matters" as stated in Attachment C of this Agreement and will comply in full with said provisions.

D. IT IS FURTHER CERTIFIED that the SPONSOR has read and understands the regulations for "COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964," as amended, and 23 CFR 200 et.seq. as stated in Attachment D of this Agreement and will comply in with said provisions.

E. The undersigned certify that the provisions of Sections 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.

F. The SPONSOR acknowledges and agrees that failure to complete appropriate certifications or the submission of a false certification shall result in the termination of this Agreement pursuant to the provisions of Article XIV.

G. IT IS FURTHER AGREED that the SPONSOR shall use its best efforts to subcontract a minimum of **Ten** percent (**10%**) of the total amount of PROJECT funds to Disadvantaged Business Enterprise (DBE) as defined and provided for under the Federal Rules and Regulations 49 CFR 26 et.seq. The SPONSOR shall ensure that DBE firms are certified with the DEPARTMENT's Equal Employment Opportunity Office. The SPONSOR shall submit to the DEPARTMENT, for its review and concurrence, a copy of the proposed subcontract including the name of the DBE subcontractor. The Sponsor further agrees to the following assurances for participation by Disadvantaged Business Enterprises in Department of Transportation financial assistance programs:

(1) The Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The Sponsor shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Sponsor's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation in this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter to enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

(2) The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Sponsor deems appropriate.

H. IT IS FURTHER AGREED that the SPONSOR shall comply and shall require its subcontractors to comply with all applicable requirements of the Americans 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.

I. IT IS FURTHER AGREED that the SPONSOR shall, and shall require its contractors and subcontractors to, comply with all applicable requirements of the Davis-Bacon Act of 1931, 40 U.S.C. 276(a); as prescribed by 23 U.S.C. 113, for Federal-aid highway projects, except for projects located on roadways classified as local roads or rural minor collector, which are exempt.

J. IT IS FURTHER AGREED that the Sponsor shall, and shall require its contractors and subcontractors to, comply with all applicable requirements of the American Recovery and Reinvestment Act (ARRA) of 2009, as stated in Attachment E and any other applicable requirements under ARRA.

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, said parties have hereunto set their hand and affixed their seals the day and year above first written.

DEPARTMENT OF TRANSPORTATION

_____
Commissioner (SEAL)

ATTEST:

_____
Treasurer

CITY OF ATLANTA

BY: _____(SEAL)
Name: KASIM REED
Title: MAYOR

Signed, Sealed & Delivered

This _____Day of _____, 201___.
in the presence of:

_____
NOTARY PUBLIC

I attest that the Corporate Seal attached to this Document is in fact the seal of the Corporation and that the Officer of this Corporation executing this Document does in fact occupy the official position indicated and is duly authorized to execute such document on behalf of this Corporation.

ATTEST:

_____
CITY/COUNTY CLERK (or as appropriate)

_____
Commissioner, Department of Public Works

APPROVED AS TO FORM:

_____
City Attorney

_____
Federal Employee Tax No.

insert

AUTHORIZING RESOLUTION

here

(see following example)

FOR EXAMPLE ONLY

AUTHORIZING RESOLUTION

Resolution authorizing **<SPONSOR>** (hereinafter referred to as "SPONSOR") and the Georgia Department of Transportation (hereinafter referred to as "DEPARTMENT") to contract for funding under the Transportation Equity Act for the 21st Century (hereinafter referred to as "TEA-21").

WHEREAS, the Secretary of the United States Department of Transportation (hereinafter referred to as "US DOT) and the Commissioner of the DEPARTMENT are authorized to contract for Transportation Enhancement Projects; and

WHEREAS, the contract for financial assistance imposes certain duties upon SPONSOR including but not limited to the provision of its local share of the project costs; and

WHEREAS, SPONSOR guarantees that it will comply with Title VI of the Civil Rights Act of 1964, all other pertinent directives and all US DOT requirements; and

WHEREAS, to complete the project, SPONSOR will use Disadvantaged Business Enterprises to the fullest extent possible and will implement and administer procedures to ensure that minority businesses are competitive for contracts and purchase orders when procuring services including but not limited to construction contracts, supplies, equipment contracts or consultant contracts.

NOW, THEREFORE, BE IT RESOLVED BY SPONSOR THAT:

1. _____ is authorized to execute the contract on behalf of _____ _____ with the DEPARTMENT for aid in financing construction, and all other activities incidental thereto, of Transportation Enhancement Activity pursuant to Public Law 105-178 (1998); and all other provisions as set forth in the contract with the DEPARTMENT.

2. _____ is authorized to execute and file an assurance or any other document required by the US DOT and the DEPARTMENT certifying compliance with Title VI of the Civil Rights Act of 1964.

3. _____ is authorized to furnish any and all additional information that may be required by US DOT or the DEPARTMENT in connection with the application for the Transportation Enhancement Activity project and budget.

4. That _____ is authorized to set forth and execute affirmative disadvantaged business policies in connection with the ***participation goal established by the Georgia Department of Transportation.***

CERTIFICATION

The undersigned duly qualified and acting as _____ of the **<SPONSOR>** certifies the following:

The <SPONSOR> has contributed to date the sum of $_____ towards preliminary engineering for this project.

The <SPONSOR> has identified sufficient resources to complete the Scope of Work for this project and make all payments not covered by the federal Transportation Enhancement Activity funding contribution.

The foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the _____ held on _____ 20__.

<<IMPRESS OFFICIAL SEAL HERE>>

_____
Signature of Recording Officer

_____
Title of Recording Officer

_____
Date

insert

OPINION OF COUNSEL

here

(see following example)

FOR EXAMPLE ONLY

OPINION OF COUNSEL

Georgia Department of Transportation
Office of Program Delivery
600 West Peachtree Street
Atlanta, GA 30308

Re: Contracts for Transportation Enhancement Activity funds

Dear Mr. Bobby Hilliard:

This communication serves as the official opinion of counsel regarding the above referenced matter pursuant to the requirements of the Transportation Equity Act for the 21st Century (TEA-21), P. L. 105-178 (1998). **<SPONSOR>** (hereinafter referred to as "SPONSOR") has been approved for funding under TEA-21 and that the Federal Highway Administration (FHWA) has concurred in said approval. As such, I certify that SPONSOR is authorized to plan, construct and implement Transportation Enhancement Activity projects for the following reasons:

1. SPONSOR is authorized under (cite and quote from legal authority) to plan, construct, implement and maintain Transportation Enhancement Activity projects. These functions may be carried out directly by SPONSOR or by agreements with other parties.

2. SPONSOR is authorized under (cite source and provide a copy) to provide for its share of project funds for the Transportation Enhancement Activity project. *See Attached*

Further, I certify that contracting for Transportation Enhancement Funds does not violate applicable Federal, State and/or local laws. Moreover, I certify that there is no pending litigation or other pending action that may adversely affect the proposed project in the program or SPONSOR's ability to perform its duties under the contract.

Sincerely,

Legal Counsel for **<SPONSOR>**

CERTIFICATION OF SPONSOR

I hereby certify that I am the _____ and duly authorized representative of the _____ whose address is _____. I hereby certify to the best of my knowledge and belief that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, 'Disclosure Form to Report Lobbying', in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000.00 and not more than $100,000.00 for each such failure.

The SPONSOR also agrees that the language of this certification shall be included in all subcontracts and lower tier subcontracts which exceed $10,000.00 and that all such recipients and sub-recipients shall certify and disclose accordingly.

I also certify that neither I nor the above entity I here represent has:

(a) employed or retained for a commission, percentage, brokerage contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above entity) to solicit or secure this Agreement.

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the Agreement, or

(c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above entity) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation of Federal Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

_____ _____

Date Signature

CERTIFICATION OF DEPARTMENT OF TRANSPORTATION

STATE OF GEORGIA

I hereby certify that I am the Commissioner of the Department of Transportation of the State of Georgia, and that the above consulting firm, or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Agreement to:

(a) employ or retain, or agree to employ or retain, any firm or person, or

(b) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as here expressly stated, (if any):

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation of Federal Highway Funds, and is subject to applicable State and Federal Laws, both criminal and civil.

_____ _____

Date Commissioner

ATTACHMENT A

CERTIFICATION OF COMPLIANCES

I hereby certify that I am a principal 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 $ 175,000.00 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 $ 175,000.00 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 $ 300,000 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 $ 300,000 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

ATTACHMENT B

CERTIFICATION OF SPONSOR
DRUG-FREE WORKPLACE

(1) 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; and

(2) A drug-free workplace will be provided for the SPONSOR's employees during the performance of the contract; and

(3) Each subcontractor hired by the SPONSOR shall be required to ensure that the subcontractor's employees are provided a drug-free workplace. The SPONSOR shall secure from that subcontractor the following written certification: "As part of the subcontracting agreement with the SPONSOR, **<the subcontractor>** certifies to the SPONSOR that a drug-free workplace will be provided for the subcontractor's employees during the performance of this contract pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated Section 50-24-3"; and

(4) It is certified that the SPONSOR will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.

ATTACHMENT C

SPONSOR
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

The SPONSOR certifies that it has read and understands the attached instructions and that to the best of my knowledge and belief the firm and its representatives:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by the Georgia Department of Transportation and by any Federal department or agency;

(b) Have not within a three year period preceding this Agreement been convicted of or had a civil judgement rendered against the firm or its representatives for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State, or Local) transaction or contract under a public transaction in violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification;

(d) Have not within a three year period preceding this Agreement had one or more public transactions (Federal, State or Local) terminated for cause or default; and

(e) That the firm will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" as attached hereto and without motivation, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

I acknowledge that this certification is provided pursuant to Executive Order 12549 and 49 CFR Part 29 and that this firm agrees to abide by the rules and conditions set forth therein for any misrepresentation that would render this certification erroneous, including termination of this Agreement and other remedies available to the Georgia Department of Transportation and Federal Government.

I further acknowledge that this certificate is to be furnished to the Georgia Department of Transportation, in connection with this Agreement involving participation of Federal Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Instructions for Attachment C Certification

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions (SPONSORS)

1. By signing and submitting this contract the SPONSOR is providing the certification set out in Attachment C.
2. The inability of the SPONSOR to provide the certification required may not necessarily result in denial of participation in this covered transaction. The SPONSOR shall then submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the SPONSOR to furnish a certification or an explanation shall disqualify such person or firm from participation in this transaction.
3. The certification, Attachment C, is a material representation of fact upon which reliance is placed by the Department before entering into this transaction. If it is later determined that the SPONSOR knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause of default.
4. The SPONSOR shall provide immediate written notice to the Department if at any time the SPONSOR learns that it certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in these instructions and the certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
6. The SPONSOR agrees by submitting this proposal/contract that should the proposed covered transaction be entered into, it shall not knowingly enter into a lower tier covered transaction with a person/firm who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the Department.
7. The SPONSOR further agrees by submitting this proposal/contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", as provided by the Department without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A SPONSOR in a covered transaction may rely upon a certification of a prospective participant in lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. The SPONSOR may decide the method and frequency by which it determines the eligibility of its principals.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by these instructions. The knowledge and information of the SPONSOR is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if the SPONSOR in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction in addition to other remedies available to the Federal Government, the Georgia Department of Transportation may terminate this transaction for cause or default.

ATTACHMENT D

NOTICE TO SPONSOR
COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

During the performance of this Agreement, the SPONSOR, for itself, its assignees and successors in interest (hereinafter referred to as the "SPONSOR"), agrees as follows:

(1) **Compliance with Regulations**: The SPONSOR will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations [also 49 CFR Part 27]), which are herein incorporated by reference and made a part of this contract.

(2) **Nondiscrimination:** The SPONSOR, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, national origin, or sex in the selection and retention of subcontractors including procurement of materials and leases of equipment. The SPONSOR will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program, set forth in Appendix B of the Regulations. In addition, the SPONSOR will not participate either directly or indirectly in the discrimination prohibited by 23 CFR 200.

(3) **Solicitations for Subcontracts, Including Procurement of Materials and Equipment**: In all solicitations, either by competitive bidding or negotiations made by the SPONSOR for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the SPONSOR of the SPONSOR's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin or sex.

(4) **Information and Reports**: The SPONSOR will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the SPONSOR is in the exclusive possession of another who fails or refuses to furnish this information, the SPONSOR shall so certify to the State Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain this information.

(5) **Sanctions for Noncompliance**: In the event of the SPONSOR's noncompliance with the nondiscrimination provisions of this contract, the State Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the SPONSOR under the contract until the SPONSOR complies, and/or

(b) cancellation, termination or suspension of this contract, in whole or in part.

(6) **Incorporation of Provisions**: The SPONSOR will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The SPONSOR will take such action with respect to any subcontract or procurement as the State Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the SPONSOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the SPONSOR may request the State to enter into such litigation to protect the interests of the State, and, in addition, the SPONSOR may request the United States to enter into such litigation to protect the interests of the United States.

ATTACHMENT E

NOTICE TO SPONSOR
REQUIREMENTS ESTABLISHED UNDER THE
AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) OF 2009

During the performance of this Agreement, the SPONSOR, for itself, its assignees and successors in interest (hereinafter referred to as the "SPONSOR"), and its Contractors, agree as follows:

(1) **Reporting Requirements:** The Sponsor will comply with the monthly reporting requirements of the American Recovery and Reinvestment Act (ARRA) of 2009 as follows:

(Applicable to all Federal Aid American Recovery and Reinvestment Act (ARRA) funded construction contracts and subcontracts)

Monthly Employment Reports shall be completed and submitted to the Engineer within ten calendar days after the end of each month. Failure to provide the required documentation will be grounds for withholding all payments on this contract. (See Attached Form and Directions)

Access to the monthly reporting information is available on the GADOT Construction Bidding Administration Web Site at wwwb.dot.state.ga.us/dot/construction/contractsadm/index.shtml.

(2) **ARRA Section 902** Provides the U. S. Comptroller General or authorized representative will be allowed:

(a) To examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and

(b) To interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

(3) **ARRA Section 1515** Provides Authority for the Inspector General or authorized representative during the term of this contract plus an additional three (3) years thereafter:

(a) To examine any records or interview any employee or officers working on this contract. The contractor is advised representatives of the inspector general have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

(4) **Buy America**

All manufacturing processes for steel and iron materials and steel and iron coatings permanently incorporated into this project must occur in the United States of America. However, pig iron and processed, pelletized, or reduced iron ore used in the production of these products may be manufactured outside the United States.

This requirement, however, does not prevent a minimal use of foreign materials and coatings, provided the cost of materials and coatings used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or $2,500.00, whichever is greater.

NOTE: Coatings include: epoxy coating, galvanizing, painting and any other coating that protects or enhances the value of the material.

INSERT ARRA REPORTING FORM AND INSTRUCTIONS (2 PAGES)

Monthly Employment Report

Coding Instructions

BOX 1. **First day of reporting period:** The first day of reporting period is the first day of the first payroll period of the month. If the beginning of the month splits the payroll period then the report will include dates from the prior month as necessary to complete the payroll period.

BOX 2. **Report Month:** The month and year covered by the report, as *mmyy* e.g. "May 2009" would be coded as "0509."

BOX 3. **Contracting agency:** The name of the contracting agency. Leave blank for State projects. For non-State projects, enter the name of the contracting agency (Federal agency, tribe, MPO, city, county etc).

BOX 4. **Federal-aid project number:** The State assigned federal-aid project number, consistent with the format reported in FMIS.

BOX 5. **State project number or identification number:** The State assigned project number or ID, consistent with the format reported in FMIS.

BOX 6. **Project location:** State where project occurs. If the project performed for Federal Lands, provide the region name.

BOX 7. **Contractor name and address:** The name and address of firm shall include the name, street address, city, state, and zip code for the contractor.

BOX 8. **Contractor DUNS number:** The unique nine-digit number issued by Dun & Bradstreet. Followed by the optional 4 digit DUNS Plus number. Leave blank if contractor does not have one. Reported as "*999999999.9999*"

Monthly Employment Report

BOX 9. Employment data

Subcontractor name: The name of each subcontractor that was active on the project for the reporting month.

Employees: The number of employees on the contractor's workforce that month, and the number of employees for each of the active subcontractors that month. Do not include material suppliers. Total field at bottom will be automatically calculated. Reported as a whole number.

Hours: The total hours on the specified project for all employees on the contractor's workforce that month, and the total hours for all employees for each of the active subcontractors that month. Total field at bottom will be automatically calculated. Reported as a whole number.

Payroll: The total dollar amount of wages paid by the contractor that month for employees on the specified project, and the total dollar amount of wages paid by each of the active subcontractors that month. Total field at bottom will be automatically calculated. Rounded to the nearest whole dollar and reported as a whole number.

BOX 10. Prepared by:

Name: Indicate the person responsible for preparation of the form. By completing the form the person certifies that they are knowledgeable of the hours worked and employment status for all the employees. Contractors are responsible to maintain data to support the employment form and make it available to the State should they request supporting materials.

Date: The date that the contractor completed the employment form. Reported as "*mmddyy*."

MONTHLY EMPLOYMENT REPORT
AMERICAN RECOVERY AND REINVESTMENT ACT

1. Report Month: (mm/yyyy)	2. Contracting Agency	
3. Federal-Aid Project Number	4. State Project Number or ID Number	5. Project Location: State, County or Federal Region

6. CONTRACTOR NAME AND ADDRESS

Name:

Address:

City: State:

Zip:

7. Contractor/Subcontractor DUNS Number:

8. Employment Data

	EMPLOYEES	HOURS	PAYROLL
Prime Contractor Direct, On-Project Jobs (see guidance for definitions)			
Subcontractor Direct, On-Project Jobs			
Subcontractor Name			
Prime and Subcontractor Totals	0	0	0.00

9. PREPARED BY CEO or Payroll Official:	DATE:
Name:	
Title:	

Form FHWA-1589 (Rev. 3-25)

EXHIBIT A
WORK PLAN
CONSTRUCTION PHASE

The Scope and Procedure of the Project is stated as follows:

SECTION A - DESCRIPTION OF THE PROJECT

The PROJECT consists of providing services connected with construction

County. The PROJECT PLANS on file with the DEPARTMENT and the SPONSOR and referenced as if attached hereto and incorporated as if fully set out herein identify the detailed construction work to be accomplished for the PROJECT.

The SPONSOR shall be responsible for the following activities:

1. Comply with conditions listed in the Georgia Department of Natural Resources Historic Preservation Division finding of no adverse effect.

2. Advertise the project for public bid according to the requirements of the Official Code of Georgia, Title 32, Chapter 2, excluding that provision which provides for negotiations and the Required Contract Provisions (Form FHWA-1273) as given in 23 C.F.R. 633 subpart A and 49 C.F.R. Part 18. Upon opening bids, the SPONSOR shall award the PROJECT to the lowest reliable bidder.

3. All bidders submitting bids in excess of $2,000,000 must be pre-qualified with the DEPARTMENT. If construction work involves welded structures, such as bridges, the manufacturer of the structure shall be on the GDOT QPL List 60.

4. The SPONSOR shall hold a pre-construction conference for the project with, as a minimum, the contractor and the DEPARTMENT's Area Engineer.

5. Provide copies of the SPONSOR's construction subcontract to the DEPARTMENT's Area Engineer for use in monitoring PROJECT construction and reviewing payment invoices.

6. Provide copies of the completed construction plans to the DEPARTMENT's Project Manager and to the local Area Engineer.

7. Submit to the DEPARTMENT's Area Engineer a copy of all proposed DBE subcontracts, including the name of the subcontractor.

8. Ensure that DBE firms are certified with the DEPARTMENT'S Equal Employment Opportunity Office.

9. Check the third party contractor's payrolls for, including but not limited to, compliance with appropriate wage rates and Disadvantage Business Enterprise (DBE) participant goal and submit monthly reports on DBE participation to the DEPARTMENT's Area Engineer. DBE monitoring and reporting requirements are outlined in the DEPARTMENT's publication entitled "Disadvantaged Business Enterprise Program Criteria for Acceptability", current edition.

10. Retain a Resident On-site Construction Inspector.

11. Provide for total on-site PROJECT management; working with the third party contractor to establish sequences for work.

12. Submit monthly progress reports and invoices to the DEPARTMENT's Area Engineer until final acceptance of the PROJECT by the SPONSOR and submittal of "Sponsor's Certification of Final Acceptance" form, final voucher, materials certification statement, and "Statement of Final Project Expenditures" form.

13. Maintain adequate project files including but not limited to project diary, material certificates, insurance documents, complete construction plans and specifications, and third party contractor payrolls. **Also maintain inspection, measurement and payment supporting documentation and provide copies to the Department upon request within 48 hours.**

14. For all materials not tested by the DEPARTMENT, the SPONSOR will certify that material suppliers and materials conform to the requirements of the Agreement, plans and specifications. These materials are expected to comply with generally accepted industry standards for the individual items.

15. Have a Resident Inspector obtain AS BUILT CONSTRUCTION PLANS.

16. Furnish the DEPARTMENT with a copy of the AS BUILT CONSTRUCTION PLANS.

17. Comply with all applicable state and federal laws, rules and regulations and guidelines.

The DEPARTMENT shall be responsible for the following activities:

1. Provide a project engineer to conduct spot inspections, verify progress, and approve invoices for payment.

2. Conduct materials testing of all materials typically used in highway construction that become a permanent part of the travelway and its safety appurtenances.

The SPONSOR and DEPARTMENT shall follow the following reimbursement procedures:

For payment purposes, the SPONSOR shall forward monthly invoices, with copies of the contractor's invoices, descriptions of work performed during the payment period, and any other documentation requested or required by the DEPARTMENT, to the DEPARTMENT's Area Engineer. The DEPARTMENT shall process the SPONSOR's reimbursement request according to standard procedures established by the DEPARTMENT. It is understood that the DEPARTMENT shall process or make findings on all reimbursement requests in a timely and efficient manner.

The SPONSOR agrees to abide by the terms and conditions governing the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 49 CFR Part 18.

The SPONSOR shall comply with the following provisions applicable to construction of the PROJECT:

a. Content of Construction Contracts. The SPONSOR hereby agrees to contract for the construction of the PROJECT in accordance with the legal requirements imposed on the DEPARTMENT, specifically but not limited to the provisions governing the DEPARTMENT's authority to enter into contracts, Sections 32-2-60 through 32-2-77 of the Official Code of Georgia Annotated, as amended and the Department of Transportation's Rules and Regulations governing the Prequalification of Prospective Bidders, Chapter 672-5 and 23 CFR Part 633, Required Contract Provisions (Form FHWA –1273)

   The SPONSOR certifies and shall require any contractor or subcontractor to certify that it has examined the plans for the PROJECT and the Department's "Standard Specifications", 2001 Edition; ***"Supplemental Specifications Book", current edition;*** and any Supplemental Specifications and Special Provisions applicable for the PROJECT and shall construct or cause the construction of the PROJECT in accordance with the requirements of the DEPARTMENT.

The SPONSOR further certifies and shall require any contractor or subcontractor to certify compliance with the responsibilities detailed under Subsection e. Work Stoppage, below.

b. Right to Inspect. The DEPARTMENT, its authorized representatives, agents or employees and the Federal Highway Administration shall have the right to inspect any and all construction and work within the right of way of the PROJECT in order to verify that the SPONSOR, its authorized representatives, agents, employees, contractor, or subcontractor are complying with all undertakings, duties and obligations under this Agreement. Such inspections shall not unreasonably or unnecessarily interfere with any construction. The SPONSOR shall keep the DEPARTMENT notified of all construction and construction schedules.

The right to inspect shall include but not be limited to the right to spot inspect and verify the progress of the work, confirm quantities and quality of the work and provide for the testing of concrete and asphalt if needed.

At approximately fifty percent (50%) completion of the PROJECT, the SPONSOR shall contact the Historic Preservation Division of the Georgia Department of Natural Resources and arrange a site visit. Upon completion of the PROJECT, the SPONSOR shall contact the Historic Preservation Division in order to arrange for a final site visit. The purpose of the inspections by the Historic Preservation Division is to ensure that the materials used will meet the U.S. Secretary of Interior's Standards for Rehabilitation.

c. No Assumption of Liability. The DEPARTMENT by reserving the right to review and inspect the SPONSOR's construction plans, contract documents and schedules and to inspect and review the construction and work shall have no obligation to inspect and review. Further, the DEPARTMENT, does not assume, but expressly disclaims, any liability or responsibility for the SPONSOR's or any other entities work on the PROJECT.

d. Standards of Construction. All construction activities on the PROJECT shall be performed:

1. in a good, workmanlike and non-negligent manner;

2. in a manner that avoids endangering the safety of any person, employee, tenant, servant, guest, invitee, contractor, subcontractor or agent;

3. in accordance with all applicable laws, the provision of applicable contract documents and the applicable provisions of this Agreement; and

4. free of all mechanics' and material liens upon or against the entire PROJECT property.

e. Work Stoppage. In the event of the discovery of significant archaeological remains, construction shall be stopped and the SPONSOR shall notify the Georgia Department of Natural Resources of the discovery. In this context, to be "significant", such remains would have to be able to provide important and non-redundant information that could not be obtained from other sources. The SPONSOR shall notify the Georgia Department of Natural Resources of the discovery of intact cultural features such as, but not limited to, foundations and wells. The construction shall remain stopped until the Georgia Department of Natural Resources has completed their evaluation of the remains.

f. Project Maintenance and Operation. Upon completion of the PROJECT, the SPONSOR shall assume full responsibility for the continued operation and maintenance, including the grass strip between the curb and gutter and the sidewalk within the Project limits, at no additional cost to the DEPARTMENT. The DEPARTMENT and Federal Highway Administration reserve the right to conduct periodic site inspections for the purpose of confirming proper operation and maintenance of the PROJECT.

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: Finance/Executive Committee

Caption: AN ORDINANCE AMENDING THE 2010 (INTERGOVERNMENTAL GRANT FUND) BUDGET BY ADDING TO ANTICIPATIONS AND APPROPRIATIONS TRANSPORTATION ENHANCEMENT FUNDS IN THE AMOUNT OF ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS ($125,000.00) FOR THE PURPOSE OF FUNDING CONSTRUCTION EXPENSES FOR THE CASCADE MAYS STREETSCAPE PROJECT; AND FOR OTHER PURPOSES.

Council Meeting Date: April 19, 2010

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 revise the amount of funds being received by the City of Atlanta from the Georgia Department of Transportation (ARRA stimulus program) to fund 100% of the construction cost of the Cascade Mays Streetscape Project.

2. Please provide background information regarding this legislation.

The City of Atlanta has committed to funding costs exceeding the $625,000 federal/state contribution for the completion of this streetscape project which will serve to provide a safe and pedestrian friendly corridor to the general public.

3. **<u>If Applicable/Known:</u>**

(a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):** Georgia DOT/COA TE Agreement

(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:** 2501 130308 1** 5999999 4270000 13100818 (Cascade/Mays Streetscape) 4****

5. **Source of Funds:** Intergovernmental Grant Fund

6. **Fiscal Impact:**

7. **Method of Cost Recovery:**

This Legislative Request Form Was Prepared By: Dawn Riley

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE **ATTN: CANDACE BYRD**

Dept.'s Legislative Liaison: Dawn Riley

Contact Number: (404) 330-6581

Originating Department: Department of Public Works

Committee(s) of Purview: Finance/Executive Committee

Chief of Staff Deadline: February 23, 2010

Anticipated Committee Meeting Date(s): March 31, 2010

Anticipated Full Council Date: April 19, 2010

Legislative Counsel's Signature: Saul Schultz

Commissioner Signature: Michael Chapin

Chief Procurement Officer Signature: _____

CAPTION

AN ORDINANCE AMENDING THE 2010 (INTERGOVERNMENTAL GRANT FUND) BUDGET BY ADDING TO ANTICIPATIONS AND APPROPRIATIONS TRANSPORTATION ENHANCEMENT FUNDS IN THE AMOUNT OF ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS ($125,000.00) FOR THE PURPOSE OF FUNDING CONSTRUCTION EXPENSES FOR THE CASCADE MAYS STREETSCAPE 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) 3/9/10 Reviewed by: _____ (date)

Submitted to Council: _____