3992

14-R-3384

(Do Not Write Above This Line)

First Reading

Committee
Date
Chair
Referred To

FINAL COUNCIL ACTION

☑ 2nd ☐ 1st & 2nd Readings ☐ 3rd
☑ Consent ☐ Vote ☑ RC Vote

A RESOLUTION
BY CITY UTILITIES COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE A MEMORANDUM OF UNDERSTANDING AGREEMENT WITH THE GEORGIA DEPARTMENT OF TRANSPORTATION FOR PRELIMINARY ENGINEERING AND CONSTRUCTION SERVICES FOR THE ATLANTA UNIVERSITY CENTER STREETSAPE PROJECT; AND FOR OTHER PURPOSES.

ADOPTED BY
APR 21 2014
COUNCIL

Committee
Date
Chair
Action
Fav, Adv, Hold (see rev. side)
Other
Members
Refer To

Committee
Date
Chair
Action
Fav, Adv, Hold (see rev. side)
Other
Members
Refer To

Committee
Date
Chair
Action
Fav, Adv, Hold (see rev. side)
Other
Members
Refer To

Committee
Date
Chair
Action
Fav, Adv, Hold (see rev. side)
Other
Members
Refer To

CERTIFIED

CERTIFIED
APR 21 2014
ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED
APR 21 2014
Rhonda Dauphin Johnson
MUNICIPAL CLERK

☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1ST ADOPT 2ND READ & REFER
☐ PERSONAL PAPER REFER

Date Referred
Referred To:
Date Referred
Referred To:
Date Referred
Referred To:

MAYOR'S ACTION

APPROVED
APR 30 2014
WITHOUT SIGNATURE
BY OPERATION OF LAW

CITY COUNCIL
ATLANTA, GEORGIA

A RESOLUTION
BY CITY UTILITIES COMMITTEE

14-R-3384

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE A MEMORANDUM OF UNDERSTANDING AGREEMENT WITH THE GEORGIA DEPARTMENT OF TRANSPORTATION FOR PRELIMINARY ENGINEERING AND CONSTRUCTION SERVICES FOR THE ATLANTA UNIVERSITY CENTER STREETSAPE PROJECT; AND FOR OTHER PURPOSES.

WHEREAS, the Transportation Enhancement ("TE") program makes federal funding available in conjunction with local matching contributions for the design, engineering, and construction work necessary to complete certain infrastructure improvement projects which are made a part of the Regional Transportation Improvement Plan; and

WHEREAS, the Georgia Department of Transportation ("GDOT") has committed up to eighty percent (80%) or Eight Hundred Seventy Five Thousand Dollars ($875,000.00) in TE program funds necessary to design and/or construct the Atlanta University Center Streetscape Project ("Project"), GDOT Project Identification Number, PI# 0012737; and

WHEREAS, GDOT funding will be provided to the City of Atlanta ("City") as reimbursement for contracted design, engineering and construction expenses upon inspection of work; and

WHEREAS, City has committed through appropriations the funding from various sources, including impact fees, Quality of Life Improvement Bond funds, and trust funds to complete the twenty percent (20%) local match requirement necessary to secure the federal funding; and

WHEREAS, the Project must be fully funded prior to reimbursement from GDOT in order to execute said contracts for construction, attached hereto as Exhibit "A"; and

WHEREAS, the City is required to execute a Memorandum of Understanding with GDOT in order to receive the committed TE funds; and

WHEREAS, approval of this legislation authorizes the Mayor to execute future agreements with GDOT associated with the aforementioned project including, but not limited to, project framework, right of way acquisition, construction, and mowing and maintenance agreements.

THE CITY COUNCIL OF THE CITY OF ATLANTA HEREBY RESOLVES, that the Mayor is hereby authorized to execute on behalf of the City of Atlanta, a Memorandum of Understanding with the Georgia Department of Transportation Project Indicator, PI# 0012737 (Atlanta University Center Streetscape Project), attached hereto as Exhibit "A".

BE IT FURTHER RESOLVED, that any increase in the City's financial obligation above that specified in the authorizing legislation must be approved by further action of the City Council.

BE IT FURTHER RESOLVED, that the Mayor is authorized to execute future agreements with GDOT associated with this Project including, but not limited to, project framework, right of way acquisition, construction, and mowing and maintenance agreements.

BE IT FINALLY RESOLVED, that the City Attorney be and hereby is directed to negotiate, prepare, review and present to the Mayor for execution, the agreements necessary to effect the intent of this resolution provided that such agreements are in compliance with the conditions set forth herein.

A true copy,

Deputy Clerk

ADOPTED by the Atlanta City Council **APR 21, 2014**
APPROVED as per City Charter Section 2-403 **APR 30, 2014**

TRANSPORTATION ENHANCEMENT MEMORANDUM OF UNDERSTANDING

BETWEEN

THE GEORGIA DEPARTMENT OF TRANSPORTATION

AND

THE CITY OF ATLANTA

The City of Atlanta, hereinafter called the "SPONSOR", and the Georgia Department of Transportation, hereinafter called the "DEPARTMENT",

RELATIVE TO

The SPONSOR assuming responsibility for tasks associated with Preliminary Engineering for project number 0012737, hereinafter called the "PROJECT".

WHEREAS the PROJECT is a Transportation Enhancement (TE) approved for Federal-Aid funds with a required local match of at least 20% of the PROJECT's Total Cost; and

I. IT IS THE INTENTION OF THE PARTIES:

That the SPONSOR fund 100% of the Preliminary Engineering for the PROJECT; and that the DEPARTMENT may apply said expenditure toward the SPONSOR'S local match of the PROJECT'S Total Cost, subject to the DEPARTMENT and the Federal Highway Administration's approval.

II. IT IS AGREED:

A. That the SPONSOR certifies that local funds have been budgeted to undertake Preliminary Engineering for the PROJECT; and that an accounting system has been established to track project-specific Preliminary Engineering expenditures.
B. That prior to construction of the PROJECT, the SPONSOR will certify, to the DEPARTMENT, the amount of eligible expended funds allowable toward the PROJECT'S Total Local Match.
C. That if the PROJECT includes structures such as bridges or retaining walls, the SPONSOR will be required to use consultants pre-qualified with the DEPARTMENT.

III. IT IS AGREED:

A. That construction funding will be dependent upon the SPONSOR receiving historical/environmental clearances through the DEPARTMENT; certifying existing or acquired Right-of-Way to the DEPARTMENT; producing a complete set of biddable construction plans meeting appropriate safety, access, and design standards; and preparing and forwarding construction bid procedures and documents for the DEPARTMENT'S review.

B. That nothing contained herein shall obligate the DEPARTMENT to proceed with subsequent stages of the PROJECT.

C. That the SPONSOR'S expenditure prior to execution of an Agreement with the DEPARTMENT for construction of the PROJECT shall be at the sole cost and risk to the SPONSOR. Should the SPONSOR or the DEPARTMENT determine that for any reason the PROJECT is unable to enter subsequent stages, the DEPARTMENT is not responsible for reimbursement of local funds expended on the PROJECT.

IV. The SPONSOR shall be responsible for all costs for the continual maintenance and the continual operations of the project, including any and all sidewalks and the grass strip between the curb and gutter and the sidewalk, within the PROJECT limits.

V. The SPONSOR shall Certify that they have read and understand the regulations for "CERTIFICATION OF COMPLIANCES WITH FEDERAL PROCUREMENT REQUIREMENTS, STATE AUDIT REQUIREMENTS, AND FEDERAL AUDIT REQUIREMENTS" as stated in Attachment "A" of this AGREEMENT and will comply in full with said provisions. If the SPONSOR fails to comply, the DEPARTMENT reserves the right to require reimbursement for any and all project expenses.

VI. The SPONSOR shall accomplish all of the design activities for the PROJECT. The design activities shall be accomplished in accordance with the DEPARTMENT's Plan Development Process, 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, 2001 Edition, the DEPARTMENT's Plan Presentation Guide, PROJECT schedules, and applicable guidelines of the DEPARTMENT. The SPONSOR's responsibility for design shall include, but is not limited to the following items:

a. Prepare environmental studies, documentation, and reports for the PROJECT that show the PROJECT is in compliance with the provisions of the National Environmental Protection Act and Georgia Environmental Protection Act, as appropriate to the PROJECT funding. This shall include any and all archaeological, historical, ecological, air, noise, underground storage tanks (UST), and hazardous waste site studies required. The SPONSOR shall submit to the DEPARTMENT all environmental documents and reports for review and approval by the DEPARTMENT and the FHWA.

b. Perform all work required to obtain project permits, including, but not limited to, US Army Corps of Engineers 404 and Federal Emergency Management Agency (FEMA) approvals. These efforts shall be coordinated with the DEPARTMENT.

c. Prepare the PROJECT's drainage design including erosion control plans and the development of the hydraulic studies for the Federal Emergency Management Agency Floodways and acquisition of all necessary permits associated with the drainage design.

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

e. Failure of the SPONSOR to follow the DEPARTMENT's Plan Development Process will jeopardize the use of Federal funds in some or all of the categories outlined in this AGREEMENT, and it shall be the responsibility of the SPONSOR to make up the loss of that funding.

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 SPONSOR 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.

VII. All Primary Consultant firms hired by the SPONSOR to provide services on the PROJECT shall be prequalified with the DEPARTMENT in the appropriate area-classes.

VIII. The PROJECT construction and right of way plans shall be prepared in English units.

IX. The DEPARTMENT shall review and has approval authority for all aspects of the PROJECT. The DEPARTMENT will work with the FHWA to obtain all needed approvals with information furnished by the SPONSOR.

X. The SPONSOR shall be responsible for the design of all structure(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 SPONSOR shall perform all necessary survey efforts in order to complete the design of the structure (s) and prepare any required hydraulic and hydrological studies. The final structural plans shall be incorporated into this PROJECT as a part of this AGREEMENT.

XI. The SPONSOR 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 Liaison and the District Utilities Engineer.

XII. The SPONSOR shall address all railroad concerns, comments, and requirements to the satisfaction of the DEPARTMENT.

XIII. Upon the SPONSOR's determination of the rights of way required for the PROJECT and the approval of 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 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. 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.

XIV. Upon completion and approval of the PROJECT plans and bid documents, the Department will authorize the SPONSOR to advertise the project for bids. The SPONSOR shall be solely responsible for advertising and awarding the construction contract (subject to the Department's recommendation) for the PROJECT.

XV. The SPONSOR shall review and make recommendations concerning all shop drawings prior to submission to the DEPARTMENT. The DEPARTMENT shall have final authority concerning all shop drawings.

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

XVII. Both the SPONSOR and the DEPARTMENT hereby acknowledge that time is of the essence. The Sponsor shall have the project ready to bid within 30 months from the Date of the Notice to Proceed with Preliminary Engineering.

XVIII. 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.

XIX. IT IS AGREED:

A. That the SPONSOR as the sub-recipient of Federal financial assistance will submit a copy of audited financial statements within 30 days of publication (in compliance with OMB Circular A-133), for all fiscal periods in which the Federal sub-grant funds are expended. GDOT reserves the right to take administrative action if the SPONSOR is unresponsive.

Financial Statements will be submitted to: A133Audits@dot.ga.gov

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

_____

Mayor

_____

Witness

Signed, Sealed & Delivered

This____Day of _____, 20_____.
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:

_____

_____

Federal Employee Tax No.

ATTACHMENT A

CERTIFICATION OF COMPLIANCES

I hereby certify that I am a principle 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 $ 300,000.00 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 $ 300,000.00 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 $ 500,000 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 $ 500,000 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

Keeping Georgia on the Move

GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

Contract No. and Name: PI 0012737, Fulton County, Atlanta University Center Streetscapes

Name of Contracting Entity: City of Atlanta

By executing this affidavit, the undersigned person or entity verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the Georgia Department of Transportation has registered with, is authorized to participate in, and is participating in the federal work authorization program commonly known as E-Verify*, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

The undersigned person or entity further agrees that it will continue to use the federal work authorization program throughout the contract period, and it will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the undersigned with the information required by O.C.G.A. § 13-10-91(b).

The undersigned person or entity further agrees to maintain records of such compliance and provide a copy of each such verification to the Georgia Department of Transportation at the time the subcontractor(s) is retained to perform such service.

_____
EEV / E-Verify™ User Identification Number

_____
Date of Authorization

_____
BY: Authorized Officer or Agent
(Contractor Name)

_____
Date

_____
Title of Authorized Officer or Agent of Contractor

_____
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

_____ DAY OF _____, 201_

_____
Notary Public

[NOTARY SEAL]

My Commission Expires: _____

* or any subsequent replacement operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603