



CITY OF DUNWOODY

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MEMORANDUM

To: Mayor and City Council
From: Michael Smith, Public Works Director
Date: September 13, 2010
Subject: **Discussion of Intergovernmental Agreement with the City of Sandy Springs for Repaving Dunwoody Club Drive**

BACKGROUND

In the five year paving plan presented to Mayor and Council earlier this year, the section of Dunwoody Club Drive between Spalding Drive and Happy Hollow Road was programmed for repaving in 2011. The border between Sandy Springs and Dunwoody follows the street centerline for nearly all of this segment of Dunwoody Club, with Sandy Springs being responsible for maintenance on the northern half of the road and Dunwoody responsible for the southern half.

The City of Sandy Springs is receiving Local Assistance Road Program (LARP) funding from the Georgia Department of Transportation for repaving this entire segment of Dunwoody Club Drive. Sandy Springs anticipates bidding, contracting and completing the paving before the end of 2010. It would be mutually beneficial and cost effective for the two cities to enter into an Intergovernmental Agreement (IGA) for repaving this section of Dunwoody Club Drive. Under the IGA Sandy Springs would bid and administer the contract for the paving project. A preliminary IGA is attached.

FUNDING

The IGA would be structured such that the two cities would share equally in the LARP funds and cost for the common border segment of Dunwoody Club Drive. The anticipated cost to the City of Dunwoody is approximately \$235,000 and several potential funding sources have been identified. In the 2010 budget, partial funding could come from an anticipated surplus in the capital paving budget after payment of the recently completed paving contract or from overall 2010 city surplus funds. Alternatively, it may be possible to stipulate in the IGA that Dunwoody will reimburse its share of the cost within 90 days of completion of the work. This would extend payment into 2011 and allow the city to fund the project out of the 2011 budget for capital paving.

RECOMMENDED ACTION

Staff recommends entering into an IGA with Sandy Springs to share in the LARP funding and the cost for resurfacing Dunwoody Club Drive in the most economical and practical manner. Staff respectfully requests that Council provide direction as to the preferred funding source. With this guidance staff will work with the City of Sandy Springs to draft a final IGA for Mayor and Council approval.

INTERGOVERNMENTAL AGREEMENT
BY AND AMONG THE CITIES OF
DUNWOODY, GEORGIA AND
SANDY SPRINGS, GEORGIA
FOR THE PAVING ON DUNWOODY CLUB DRIVE

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”), is entered into by and among the cities of Dunwoody and Sandy Springs, Georgia (collectively referred to herein as the “Participating Cities”), as of the 27th day of September, 2010.

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

WHEREAS, the Participating Cities are interested in collaborating to resurface this section of Dunwoody Club Drive; and

WHEREAS, the City of Sandy Springs has received Local Assistance Road Program (LARP) funding from the Georgia Department of Transportation for resurfacing this entire section of roadway; and

WHEREAS, Dunwoody Club Drive is included in the 5-year paving plan for both Participating Cities; and

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

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

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

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

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

ARTICLE 1

PURPOSE AND INTENT

The purpose of this Agreement is to establish the intent of the Participating Cities jointly to resurface Dunwoody Club Drive from Spalding Drive to Happy Hollow Road (the Project).

ARTICLE 2

SPONSOR

Because contracting for paving will require a formal advertisement and bid process and because the City of Sandy Springs will be the LARP fund recipient, it is in the mutual interest of the Participating Cities to designate the City of Sandy Springs as the project sponsor. The sponsor shall coordinate the bid process to ensure compliance with any applicable purchasing policies, resolutions and/or ordinances of each of the Participating Cities. The sponsor shall receive bids from qualified contractors in accordance with established and published bid requirements and shall present acceptable (as determined by the Sponsor) bids for review and approval of the winning bidder. The sponsor will be responsible for contract administration and project management. The sponsor shall include the designated City of Dunwoody representative on all project correspondence.

ARTICLE 3

FUNDING

- (a) The LARP funding and the cost for the project will be shared equally by the Participating Cities. The City of Dunwoody will submit payment within 90 days of completion of the work.
- (b) The Contract shall require that the winning bidder complete the project to the satisfaction of each respective City. If any Participating City is not satisfied, such City shall have the right to dispute its portion of the payment to the winning bidder, and such right of each Participating City shall be included in the Contract.

ARTICLE 4

TERM OF AGREEMENT

This Agreement shall commence upon execution by all parties to this Agreement and shall continue in effect for a period of twelve (12) months.

ARTICLE 5

NON-ASSIGNABILITY

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

ARTICLE 6

ENTIRE AGREEMENT

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

ARTICLE 7

AMENDMENT

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

ARTICLE 8

SEVERABILITY

If a court of competent jurisdiction renders any provision of this Agreement (or any portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion were not part of this Agreement.

ARTICLE 9

BINDING EFFECT

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

ARTICLE 10

COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

ARTICLE 11

GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of Georgia and proper venue for any actions arising out of this Agreement may be given by a participating City or its attorney, or its Agent herein named, and shall be given at the following addresses:

If to the City of Dunwoody:

Warren Hutmacher, City Manager
41 Perimeter Center East
Suite 250
Dunwoody, Georgia 30346

With a Copy to:

Brian Anderson, City Attorney
41 Perimeter Center East
Suite 250
Dunwoody, Georgia 30346

If to the City of Sandy Springs:

John McDonough, City Manager
7840 Roswell Road
Building 500
Sandy Springs, Georgia 30350

With a Copy to:

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

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

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

CITY OF DUNWOODY, GEORGIA

Ken Wright, Mayor

Approved as to form:

Brian Anderson, City Attorney

CITY OF SANDY SPRINGS, GEORGIA

Eva Galambos, Mayor

Approved as to form:

Wendell K. Willard, City Attorney

ATTEST:

City Clerk

(SEAL)

Warren Hutmacher, City Manager

ATTEST:

City Clerk

(SEAL)

John McDonough, City Manager