



4800 Ashford Dunwoody Road
 Dunwoody, Georgia 30338
 dunwoodyga.gov | 678.382.6700

MEMORANDUM

To: Mayor and City Council

From: Michael Smith, Public Works Director

Date: December 11, 2023

Subject: **Approval of an Agreement with the Georgia Department of Transportation to Plan Improvements for the Ashford Dunwoody Road Interchange at I-285**

ITEM DESCRIPTION

Authorize the Mayor, City Manager, or designee to execute all documents necessary and proper for a Memorandum of Agreement with the Georgia Department of Transportation whereby the city will commit to provide \$200,000 in local matching funds to design improvements for the Ashford Dunwoody Road interchange at I-285.

SUMMARY

At its February 27, 2023, the City Council approved a funding commitment of \$100,000 for the Georgia Department of Transportation (GDOT) to plan improvements for the Ashford Dunwoody Road interchange at I-285, with the understanding that the Perimeter Community Improvement District (PCID) would also provide \$100,000. GDOT has subsequently programmed \$1,000,000 for the project in the regional Transportation Improvement Program (TIP) and seeks to formalize the \$200,000 local commitment by entering into a Memorandum of Understanding (MOU). The city currently has capital funds set aside for this project (SP1-1813) and expects to enter into a secondary agreement with the PCID when their board meets next in January.

DETAILS

When the Diverging Diamond interchange was constructed at Ashford Dunwoody Road and I-285, it was intended as an interim improvement that would eventually be replaced by a complete reconstruction of the interchange. Over the last decade, the DDI has successfully improved traffic flow but excessive delays in the AM and PM peak periods are projected in the next 10 years even when accounting for the new managed lane system planned by GDOT. The proximity of Hammond Drive and the weaving movements between the interchange and Hammond also have a direct impact on the traffic congestion at the interchange.

In 2016 the city received funding from the Atlanta Regional Commission and the Georgia Transportation Infrastructure Bank for preliminary engineering on the Westside Connector project. The project was conceived to provide a direct connection from the westbound I-285 off ramp at Ashford Dunwoody Road to Perimeter Center Parkway via Campus Way. The purpose of this connection was to reduce traffic congestion and lane change conflicts on Ashford Dunwoody Road between I-285 and Hammond Drive. After the initial conceptual design was



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developed, the alignment of the proposed connector had to be shifted further out of the I-285 right of way to make room for the Top End managed lanes being planned by the Georgia Department of Transportation (GDOT). This shift placed the new alignment in conflict with the approved development plans for the Ravinia parcel adjacent to the off ramp, which significantly increased the cost for the right of way needed for the project.

The city, in partnership with the Perimeter Community Improvement District (PCID), then began to explore other options to improve traffic flow at the Ashford Dunwoody interchange. The recommendation, presented to the City Council in 2022, called for widening the bridge by one lane in each direction and adding a separate, parallel bridge over I-285 for bicycles and pedestrians. The PCID and City presented this recommendation to ARC and GDOT representatives along with a request to fund further advancement of the project.

RECOMMENDED ACTION

Authorize the Mayor, City Manager, or designee to execute all documents necessary and proper for a Memorandum of Agreement with the Georgia Department of Transportation whereby the city will commit to provide \$200,000 in local matching funds to design improvements for the Ashford Dunwoody Road interchange at I-285.



Russell R. McMurry, P.E., Commissioner
 One Georgia Center
 600 West Peachtree Street, NW
 Atlanta, GA 30308
 (404) 631-1000 Main Office

12/4/2023

PI No. 0020055, City of Dunwoody, Dekalb County
 ASHFORD DUNWOODY ROAD FROM CS 367 TO CS 6036 - SCOPING ONLY

Lynn Deutsch, Mayor
 City of Dunwoody
 4800 Ashford Dunwoody Rd. NE
 Dunwoody, GA 30338
 Attention: Michael Smith

Dear Mayor Deutsch:

Attached is the Memorandum of Agreement (MOA) detailing Local Match commitment for the City of Dunwoody for the above referenced project.

Please review the attached agreement and if satisfactory, execute the agreement within the Contract Authorization Tracking System (CATS) using the DocuSign® electronic signature system. Once the agreement has been fully executed by the Georgia Department of Transportation, The City of Dunwoody will receive a notification from CATS that an electronic copy of the executed agreement is available and can be downloaded for your project file. Any additional Specific Activity Agreements for Right of Way, Utility Relocation, and Construction will be sent at the appropriate time, if required.

If you have any questions about items contained in this agreement, please contact the Project Manager, Gretel Sims, at (470) 747-2558 or gsims@dot.ga.gov.

Sincerely,

Kimberly W. Nesbitt
 State Program Delivery Administrator

^{CAR}
 KWN:CAR:NEN:GSS
 Attachment(s) ^{NEP}

cc: Albert V. Shelby, Director of Program Delivery
 Paul DeNard, District 7 Engineer
 Landon Perry, District 7 Preconstruction Engineer
 Attn: Joshua Higgins, District 7 Planning & Programming Liaison

**MEMORANDUM OF AGREEMENT
BY AND BETWEEN
GEORGIA DEPARTMENT OF TRANSPORTATION
AND
CITY OF DUNWOODY
FOR**

**PROJECT ID NUMBER: 0020055
PROJECT DESCRIPTION: ASHFORD DUNWOODY ROAD FROM CS 367
TO CS 6036 – SCOPING ONLY**

This Memorandum of Agreement (“Agreement”) is made and entered into on _____ (“Effective Date”) by and between the GEORGIA DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia (hereinafter referred to as the "DEPARTMENT" or “GDOT”), and the CITY OF DUNWOODY, (hereinafter referred to as the "LOCAL GOVERNMENT"). The DEPARTMENT and LOCAL GOVERNMENT may be referred to individually as the “PARTY” or collectively as the “PARTIES”.

WHEREAS, the LOCAL GOVERNMENT has expressed to upgrade and expand the existing interchange to accommodate future traffic flow.

WHEREAS, the DEPARTMENT and the LOCAL GOVERNMENT have mutually agreed to cooperate for this undertaking, with the DEPARTMENT serving as sponsor; and,

WHEREAS, the desired study entitled, “Ashford Dunwoody Road from CS 367 to CS 6036”, and identified by GDOT project identification number (“PI #”) 0020055, has been added to the Transportation Improvement Program/State Transportation Improvement Program (hereinafter called “PROJECT”); and

WHEREAS, the LOCAL GOVERNMENT has represented to the DEPARTMENT that it has committed funding in the amount of TWO-HUNDRED THOUSAND DOLLARS and 00/100 (\$200,000.00) toward the PROJECT (hereinafter called “Local Match”); and

WHEREAS, the PARTIES have each found and determined that the undertaking contemplated herein is in their mutual interest and in the best interest of and for the benefit of the DEPARTMENT and the LOCAL GOVERNMENT to progress the PROJECT; and

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

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

1. The above “Whereas” clauses are hereby incorporated by reference as though fully set forth herein

2. **SCOPE.**

- 2.1. The project will upgrade and expand the existing interchange to accommodate future traffic flow.
- 2.2. The Local Match provided by the LOCAL GOVERNMENT pursuant to this Agreement will be used to fund staff hours and any other associated expenses incurred by the DEPARTMENT to progress the PROJECT.

3. **TERM.**

- 3.1. The duration of this Agreement shall be for thirty-two (32) months from the Effective Date.
- 3.2. Both the LOCAL GOVERNMENT and the DEPARTMENT hereby acknowledge that time is of the essence.

4. **PAYMENT BY THE LOCAL GOVERNMENT TO THE DEPARTMENT**

- 4.1. The LOCAL GOVERNMENT shall be responsible for providing funding for the PROJECT in the amount of TWO-HUNDRED THOUSAND DOLLARS and 00/100 (\$200,000.00), which is its Local Match, as established in **Exhibit A – RESERVED.**
- 4.2. The LOCAL GOVERNMENT shall remit payment of the Local Match to the DEPARTMENT within thirty (30) days from the Effective Date of this Agreement.
- 4.3. All payments by the LOCAL GOVERNMENT to the DEPARTMENT shall be sent as follows:

For payments made by check:
 Georgia Department of Transportation
 P.O. Box 932764
 Atlanta, GA 31193-2764

For payments made by ACH:
 Bank Routing (ABA) # 121000248
 Account # 29794840000000007

4.4. **Reserved.**

5. **COMPLIANCE WITH APPLICABLE LAWS**

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

5.3. By execution of this Agreement, the undersigned certifies on behalf of the LOCAL GOVERNMENT under penalty of law that the LOCAL GOVERNMENT is in compliance with the service delivery strategy law (O.C.G.A. Sec. 36-701 et seq.) and is not debarred from receiving financial assistance from the State of Georgia.

6. **EXHIBITS AND APPENDICES.** The Parties acknowledge that the following exhibit(s) and appendix(ices)are hereby incorporated into and made a part of this Agreement as though expressly written herein:

Exhibit A – Reserved

Appendix A – Certification of Compliances

7. **MISCELLANEOUS.**

7.1. Amendment. No modification of or amendment to this Agreement will be binding on either PARTY hereto unless such modification or amendment will be properly authorized, in writing, properly signed by both PARTIES and incorporated in and by reference made a part hereof.

7.2. Governing Law. This Agreement is made and entered into in DEKALB COUNTY, GEORGIA, and shall be governed and construed under the laws of the State of Georgia.

7.3. Continuity. Each of the provisions of this Agreement will be binding upon and inure to the benefit and detriment of the PARTIES and the successors and assigns of the PARTIES hereto.

7.4. Non-Waiver. No failure of any PARTY to exercise any right or power given to such PARTY under this Agreement, or to insist upon strict compliance by another PARTY with the provisions of this Agreement, and no custom or practice of any PARTY at variance with the terms and conditions of this Agreement, will constitute a waiver of any PARTY 's right to demand exact and strict compliance by the other PARTY with the terms and conditions of this Agreement.

7.5. Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent permitted by law and regulation.

7.6. No Third Party Beneficiaries. Nothing contained herein shall be construed as conferring upon or giving to any person, other than the PARTIES hereto, any rights or benefits under or by reason of this Agreement.

7.7. Execution 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.

7.8. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

7.9. Interpretation. The PARTIES stipulate that for good business reasons, each has determined to negotiate, and each PARTY has had significant voice in the preparation of this

Agreement. Should any provision of this Agreement require judicial interpretation, it is agreed that the Court interpreting or construing it shall not construe the Agreement more strictly against either PARTY because it drafted a particular provision, or the provision was for the PARTY's benefit, or the PARTY enjoyed a superior bargaining position.

- 7.10. Authority/Signature. The individual signing this Agreement on behalf of each PARTY represents that (s)he has the actual authority to sign this Agreement on behalf of such PARTY, and to bind such PARTY to the terms and conditions of this Agreement.
- 7.11. Entire Agreement. This Agreement supersedes all prior negotiations, discussions, statements and agreements between the PARTIES and constitutes the full, complete and entire agreement between the PARTIES with respect hereto. No member, officer, employee or agent of either PARTY has the authority to make, or has made, any statement, agreement, representation or contemporaneous agreement, oral or written, in connection herewith, amending, supplementing, modifying, adding to, deleting from, or changing the terms and conditions of this Agreement.

**The remainder of this page intentionally left blank.
Signatures are on the following page.**

IN WITNESS WHEREOF, the DEPARTMENT and the LOCAL GOVERNMENT have hereunto set their hand and affixed their seals on the day and year above first written.

**GEORGIA DEPARTMENT OF
TRANSPORTATION**

CITY OF DUNWOODY

By: _____ (Seal)
Commissioner

By: _____ (Seal)

Name and Title

Attest:

Signed, sealed and delivered on _____
in the presence of:

Treasurer

Witness
Name: _____
Title: _____

This Agreement, approved by
City of Dunwoody, on _____ (date)

Attest:
By: _____

Name and Title

Federal Employer Identification
Number

**EXHIBIT A
RESERVED**

**APPENDIX A
CERTIFICATION OF COMPLIANCES**

I hereby certify that I am a principal and duly authorized representative of City of Dunwoody whose address is 4800 Ashford Dunwoody Rd. NE, Dunwoody, GA 30338 and it is also certified that:

I. 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 Agreement period in full, including but not limited to the following provisions:

- (a) Each unit of local government having a population in excess of 1,500 persons or expenditures of \$550,000.00 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 \$550,000.00 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.

II. SERVICE DELIVERY STRATEGY REQUIREMENT

The provisions of Section 36-70-20 et seq. of the Official Code of Georgia, relating to the “Coordinated And Comprehensive Planning And Service Delivery By Counties And Municipalities”, as amended, have been complied with throughout the Agreement period.

Date

Signature