



TO: John McDonough, City Manager

FROM: Garrin M. Coleman, P.E., Public Works Director

DATE: November 22, 2013 for Submission onto the Agenda of the December 3, 2013 City Council Meeting

ITEM: Consideration of Approval of the Intergovernmental Agreement (IGA) For the MARTA Funded Projects Currently Programmed in the Transportation Improvement Plan (TIP)

Recommendation:

Staff recommends that the Mayor and City Council consent to a Third Amendment to the Atlanta Regional Commission (ARC) – MARTA Offset Funds' Intergovernmental Agreement (IGA) between the City of Sandy Springs and MARTA to extend the completion time to May 31, 2014 and realign budget categories and that the City Council authorize the Mayor to sign the agreement.

Background:

In September 2009, staff reported to Mayor and City Council about a potential additional funding source for transit related transportation projects due to American Recovery and Reinvestment Act (ARRA) funding from the Atlanta Regional Commission (ARC) to MARTA for operations. In return for the ARC's allocation of \$25 million in Metropolitan Planning Organization (MPO) ARRA Flexible STP Highway Program Funds, MARTA has given program authority for \$25 million in MARTA capital funds. While these funds have no specific obligation deadline or other timing restrictions, they are subject to other legal restrictions such as the MARTA Act of 1965 as amended and the Rapid Transit Contract and Assistance Agreement (RTCAA) of 1971.

The \$6.25 million allocation for North Fulton County was divided among the five northern cities based upon the match formula used in the North Fulton Comprehensive Transportation Plan (NFCTP) Memorandum of Agreement (MOA). The City of Sandy Springs received approximately 28% or \$1.7 million for transit related projects.

The guidance given to staff in September 2010 resulted in the following project categories:

- Transit sidewalk connectivity and safety upgrades (\$1,215,470),
- Bus shelter replacements at 18 different locations (\$340,947),
- Illuminated overhead signage at rail stations (\$31,083), and
- Mid-Block crossing at MARTA stop location along Roswell Road (SR 9) near Long Island Drive (\$150,000).

These project amounts were added to ARC's Transportation Improvement Plan (TIP) by Administrative Modification on March 5, 2010.

Public Works

Discussion:

Staff is requesting an extension of time to complete the remaining projects on the previously programmed project list. To date, the overhead illuminated signage is complete and five of the sidewalk projects have been completed. The mid-block crossing signal project is currently in construction, two sidewalk projects are in construction, and the downtown bus shelters have been received with the installation to be funded by MARTA-advertising revenue and completed within the next 60 days. One sidewalk project has been bid but remains to be constructed, Hammond Drive at Barfield. Due to the unavoidable requirement to acquire right of way, that project cannot be completed until May 2014.

Taking into account actual expenditures, staff recommends the reallocation of funds among the approved project categories as follows:

<u>Fund Category</u>	<u>Current</u>	<u>Proposed</u>
Transit sidewalk connectivity and safety upgrades	\$1,215,470	\$1,221,967
Bus shelter replacements at 18 different locations (Installation funded by MARTA Advertising Revenue)	\$340,947	\$291,762
Illuminated overhead signage at rail stations	\$31,083	\$26,283
Mid-Block crossing at MARTA stop location along Roswell Road (SR 9) near Long Island Drive	\$150,000	\$197,487

Financial Impact:

None at this time as this funding does not require any type of local match. Extending this agreement enables the City to fully utilize the remaining \$181,000 of MARTA funds in the completion of eligible projects.

Attachments:

- I. Exhibit A – Original IGA with Second Amendment
- II. Exhibit B – Revised Exhibit A
- III. Exhibit C – IGA Third Amendment Form
- IV. Resolution

**ARC-MARTA OFFSET FUNDS
INTERGOVERNMENTAL AGREEMENT**

THIS INTERGOVERNMENTAL AGREEMENT, (hereinafter referred to as "Agreement") entered into as of the 14th day of July, 2010, by and between the City of Sandy Springs, (hereinafter referred to as the "CITY") and the METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY, (hereinafter referred to as "MARTA" OR "the Authority").

WITNESSETH THAT:

WHEREAS, by virtue of action taken by the Atlanta Regional Commission (ARC) whereby certain federal funds were transferred to the Authority and, in exchange, the Authority committed to fund qualifying projects contained in the Transportation Improvement Plan (TIP) from the Authority's capital budget; and

WHEREAS, the City's share of funding from the Authority for qualifying projects in the TIP is **\$1,750,469**; and

WHEREAS, the City has identified the projects defined herein ("the Project") for funding from the City's share of funding in the amount of **\$1,750,469**;

WHEREAS, the parties desire to define the responsibilities for the design, construction, implementation and payment of costs for the Project as set forth herein;

NOW THEREFORE, in consideration of the promises and the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

1. Project Defined. The Project is defined as sidewalks, shelter and signage upgrades, and a raised median crosswalk improvements located at various locations in the City, as is more fully shown in the attached Exhibit A (drawing, diagram, etc.).
2. Duties of City. The City shall be responsible for all work and services required for the successful completion of the Project, including but not limited to: (a) the design of the Project, (b) the procurement of goods and services related to the construction of the Project, (c) the management of the Project and all contractors performing work thereon, (d) the inspection and final acceptance of the Project, and (e) all other acts and obligations consistent with the successful completion of the Project.
3. Time of Performance. Work and services shall be undertaken and pursued in such sequence as to assure their expeditious completion. All work and services required hereunder shall be completed on or before (December 31, 2012). All

invoices to be submitted hereunder for reimbursement shall be submitted within 60 days of completion of work.

4. Reimbursement. The City shall be reimbursed for the costs of the Project as set forth in Exhibit B, which is attached hereto and made a part hereof.

5. Formal Communication/Designated Agents. Formal communications regarding this Agreement shall include, but not necessarily be limited to, correspondence, progress reports and fiscal reports. The City or its designee shall furnish progress and fiscal reports to the Authority periodically, as requested by the Authority. All formal communication regarding this Agreement shall be in writing and addressed to the Designated Agents of the parties.

_Paul Grether, is designated as the authorized agent of the Authority for purposes of this Agreement only, except for executing amendments hereto. All correspondence shall be direct to him/her at MARTA, 2424 Piedmont Road, N.E., Atlanta, GA 30324-3330.

Eva Galambos, Mayor, is designated as the authorized agent of the City for purposes of this Agreement only, except for executing amendments hereto. All correspondence shall be direct to him/her at 7840 Roswell Road, Bldg 500, Sandy Springs GA, 30350.

6. Review and Coordination. To ensure adequate assessment of the Project and proper coordination among the parties, the Authority shall be kept fully informed of the progress of the work and services to be performed hereunder. The City may be required to meet with designated representatives of the Authority from time to time, as reasonably requested, to review the work and services performed.

7. Maintenance of Records. The City shall maintain all books, documents, papers, accounting records and other evidence pertaining to the Project in accordance with generally accepted accounting principles applicable to the City and shall make such material available at all reasonable, times during the term of this Agreement for inspection by the Authority or its external auditors. The City shall include the provisions of this paragraph in any contract executed in connection with this Project.

8. Conflict of Interest. No officer, member or employee of the Authority, and no public official of any local government which is affected in any way by the Project, who exercises any function or responsibilities in the review or approval of the Project or any component part thereof, shall participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership or association in which he or she is directly interested; nor shall any such officer, member or employee of the Authority, or public official of any local government affected by the Project, have a direct interest in this Agreement or the proceeds arising therefrom.

9. Status of Parties as Independent Contractors. Nothing contained in this Agreement shall be construed to constitute the City or any of its employees, servants, agents or subcontractors as a partner, employee, servant, or agent of the Authority, nor shall either party to this Agreement have any authority to bind the other in any respect, it being intended that each shall remain an independent contractor.

10. Assignability. Neither party shall assign or transfer all or any portion of its interest in this Agreement without the prior written approval of the other party.

11. Amendments. Either party may request changes in this Agreement. Except for termination for cause by the Authority, such changes, including any increase or decrease in the amount of the City's reimbursement for the cost of the Project, shall be incorporated in written amendments to this Agreement.

12. Termination for Mutual Convenience. Either party may terminate this Agreement in whole or in part when both parties agree that the continuation of the Project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall, through formal Agreement amendment, agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The City shall not incur new obligations from the date of termination. The Authority shall allow full credit to the City for non-cancelable obligations, properly incurred by the City prior to termination.

13. Termination of the Agreement for Cause. If through any cause, the City shall fail to fulfill in a timely and proper manner its obligation under this Agreement, or if the City has or shall violate any of the covenants, agreements, representations or stipulations of this Agreement, the Authority shall thereupon have the right to terminate this Agreement by giving written notice to the City of such termination and specifying the effective date thereof, at least ten business days before the effective date of such termination. The City shall be entitled to receive just and equitable compensation for costs incurred in the performance of the scope of service up to and including the effective date of termination as authorized in Attachment "B". Notwithstanding the foregoing, to the extent provided by law, the City shall not be relieved of liability to the Authority for damages sustained by the Authority by virtue of any breach of this Agreement by the City, and the Authority may withhold any payments to the City for the purpose of set-off for damages caused by the City's breach, until such time as the exact amount of damages to the Authority from the City is determined.

14. Applicable Law. This Agreement shall be deemed to have been executed and performed in the State of Georgia, and all questions of interpretation and construction shall be construed by the laws of such State.

IN WITNESS WHEREOF, the City and the Authority have executed this Agreement as of the day first above written.

**METROPOLITAN ATLANTA
RAPID TRANSIT AUTHORITY**

By: Beverly A. Scott
BEVERLY A. SCOTT, Ph.D.
General Manager /CEO

**City of Sandy Springs, Fulton
COUNTY, GEORGIA**

By: Eva Galambos
Eva Galambos
Mayor

**APPROVED AS TO
SUBSTANCE:**

APPROVED AS TO FORM:

Miriam D. Lancaster
MIRIAM D. LANCASTER
Chief of Corporate Law
MARTA

[Signature]

City Attorney
City of Sandy Springs
Fulton County, Georgia

Exhibit A

PROJECT

Name	Cost
Sidewalk Connectivity/ Safety Upgrades projects:	\$1,215,469.20
Dunwoody Place pedestrian connections	
PCID Glenlake and Abernathy sidewalks	
Pedestrian Crossing at Northridge and Dunwoody Place	
Allen Rd	
Cliftwood Drive	
Hope Rd	
Glenridge Drive	
Hightower Trail	
Johnson Ferry Road	
Meridan Park	
Mt. Vernon Highway	
Northridge Road	
Northwood Drive	
Peachtree Dunwoody Road	
Roswell Road	
Hammond Drive	
Bus shelter replacements at 18 locations	\$360,000.00
Illuminated signage at Rail Stations	\$25,000.00
Mid Block Crossing at MARTA stop on Roswell at Long Island	\$150,000.00
Amount of Funding allocated to the City of Sandy Springs:	\$1,750,469.20

Exhibit B
COMPENSATION AND METHOD OF PAYMENT

I. **Compensation:** The total cost of the Project as described in Exhibit A is **\$1,750,469**. Compensation to the City shall not exceed the actual eligible costs incurred up to the total cost of the Project. In no event will the City's total reimbursement to be paid under this Agreement exceed the sum of **\$1,750,469**.

A breakdown of the reimbursement is shown in "Exhibit B-1", Project Budget which is attached to and made a part of this Agreement for financial reporting, monitoring and audit purposes. Changes in the Project Budget shall be made in accord with Paragraph 11 in the main body of the Agreement.

II. **Method of Payment:** The method of payment shall be as follows:

A. **Periodic Reimbursement.** The City shall be entitled to receive periodic reimbursement on the following basis. As of the last day of each month during the existence of this Agreement, the City shall submit to the Authority an invoice for reimbursement documenting actual costs incurred during the invoice period. As used herein, actual costs incurred shall include only eligible costs authorized in the Project Budget.

Upon the basis of its audit and review of such invoice, the Authority will, at the request of the City, make payments to the City as the work progresses but not more often than once a month. Invoices shall be numbered consecutively and submitted each month until the Project is completed.

B. **Final Payment.** Final payment shall only be made upon determination by the Authority that all requirements hereunder have been completed, including any audit requirements. Upon such determination and upon submittal of a final invoice, the Authority shall pay the final reimbursement due to the City.

The City's final invoice must be received by MARTA no later than 60 days after the Project completion date specified in Paragraph 3 of the Agreement (or as subsequently amended).

**EXHIBIT B-1
PROJECT BUDGET**

[Please refer to Exhibit A]

**SECOND AMENDMENT TO
ARC-MARTA OFFSET FUNDS INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF SANDY SPRINGS AND
METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY**

This Second Amendment, made and entered into this 7th day of November, 2012 by and between CITY OF SANDY SPRINGS, GEORGIA ("the City") and METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY ("MARTA"), hereinafter referred to jointly as "the Parties", witnesseth,

WHEREAS, on June 14, 2010 the Parties entered in the ARC MARTA Offset Funds Intergovernmental Agreement ("the Agreement") whereby MARTA agreed to provide to the City funds for payment of work contracted for by the City in accordance with the Scope of Work defined in said Agreement, said work to be completed no later than December 31, 2012; and

WHEREAS, the Parties have executed the First Amendment to the Agreement to provide for changes in the Scope of Work and the costs contemplated by the Agreement; and

WHEREAS, the Parties have determined that additional time will be required to complete the work contemplated by the Agreement and the Parties have agreed to amend the Agreement to extend the required completion date;

NOW THEREFORE, the Parties agree to amend the Agreement as follows:

1. Paragraph 3, Time of Performance, is amended by striking "December 31, 2012" and substituting in lieu thereof "December 31, 2013".
2. All other terms and conditions of the Agreement shall remain of full force and effect.

IN WITNESS WHEREOF, the Parties have caused this Second Amendment to be executed by their duly authorized officers.

**METROPOLITAN ATLANTA
RAPID TRANSIT AUTHORITY**

By: B.A. Scott
BEVERLY A. SCOTT, Ph.D.
General Manager /CEO

APPROVED AS TO FORM:

Miriam D. Lancaster
Miriam D. Lancaster
Chief of Corporate Law

CITY OF SANDY SPRINGS, GEORGIA

By: Eva Galambos
EVA GALAMBOS
Mayor

Wendell K. Willard
Wendell K. Willard
City Attorney

ATTEST:

Michael

MICHAEL
CITY CLERK



Exhibit B

Revised

Exhibit A

PROJECT

Name	Cost
Sidewalk Connectivity/ Safety Upgrades projects:	\$1,215,470.00
Dunwoody Place pedestrian connections	
PCID Glenlake and Abernathy sidewalks	
Pedestrian Crossing at Northridge and Dunwoody Place	
Allen Rd	
Cliftwood Drive	
Hope Rd	
Glenridge Drive	
Hightower Trail	
Johnson Ferry Road	
Meridan Park	
Mt. Vernon Highway	
Northridge Road	
Northwood Drive	
Peachtree Dunwoody Road	
Roswell Road	
Hammond Drive	
Bus shelter replacements at 18 locations	\$340,947.00
Illuminated signage at Rail Stations	\$31,083.00
Mid Block Crossing at MARTA stop on Roswell at Long Island	\$150,000.00
Amount of Funding allocated to the City of Sandy Springs:	\$1,737,500.00

THIRD AMENDMENT TO ARC-MARTA OFFSET FUNDS INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SANDY SPRINGS AND METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY

This third Amendment, made and entered into this ____ day of ____, 2013 by and between CITY OF SANDY SPRINGS, GEORGIA ("the City") and METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY ("MARTA"), hereinafter referred to jointly as "the Parties", witnesseth,

WHEREAS, on June 14, 2010 the Parties entered in the ARC MARTA Offset Funds Intergovernmental Agreement ("the Agreement") whereby MARTA agreed to provide to the City funds for payment of work contracted for by the City in accordance with the Scope of Work defined in said Agreement, said work to be completed no later than December 31, 2012; and

WHEREAS, the Parties have executed First and Second Amendments to the Agreement to provide for changes in the Scope of Work and the costs contemplated by the Agreement; and

WHEREAS, the Parties have determined that additional time and changes to scope will be required to complete the work contemplated by the Agreement and the Parties have agreed to amend the Agreement to extend the required completion date;

NOW THEREFORE, the Parties agree to amend the Agreement as follows:

1. Paragraph 3, Time of Performance, is amended by striking "December 31, 2013" and substituting in lieu thereof, "December 31, 2014"
2. "Exhibit A" is hereby deleted in its entirety and replaced with the "Exhibit A" attached to this Amendment.
3. All other terms and conditions of the Agreement shall remain of full force and effect.

IN WITNESS WHEREOF, the Parties have caused this Third Amendment to be executed by their duly authorized officers.

METROPOLITAN ATLANTA
RAPID TRANSIT AUTHORITY

CITY OF SANDY SPRINGS, GEORGIA

By: _____;
KEITH T. PARKER
General Manager/CEO

By: _____;
EVA GALAMBOS
Mayor

APPROVED AS TO FORM:

Counsel, Metropolitan Atlanta
Rapid Transit Authority

Wendell K. Willard
City Attorney

ATTEST; _____
Michael Casey
City Clerk

Exhibit A

Project

<u>Name</u>	<u>Allocation</u>
Sidewalk Connectivity / safety upgrades projects:	\$1,221,966.76
Dunwoody Place pedestrian connections	
PCID Glenlake and Abernathy Sidewalks	
Pedestrian Crossing at Northridge and Dunwoody Place	
Allen Road	
Cliftwood Drive	
Hope Road	
Glenridge Drive	
Hightower Trail	
Johnson Ferry Road	
Meridan Park	
Mt. Vernon Highway	
Northwood Drive	
Northridge Road	
Peachtree Dunwoody Road	
Roswell Road	
Hammond Drive	
Bus shelter replacements at 18 locations - #32050	\$ 291,762.74
Illuminated signage at Rail Station - #32051	\$ 26,283.00
Mid Block Crossing at MARTA stop on Roswell at Long Island - #32052	\$ 197,487.50
Total Project Allocation:	\$1,737,500.00

<u>Name</u>	<u>Remaining Balance</u>
32050 Bus Shelter Replc 18 Locats	\$8,728.74
32051 Illuminated Sgn Marta Rail St	\$0.00
32052 MidBlck Crsng Roswl Rd Long Dr	\$142,466.00
32053 Trans Sidewlk Connect Sfty Upg	\$632,729.22
Total Project Funds Remaining:	\$783,923.96

1. Available amounts are commuted based on all expenses presented by the City for reimbursement by MARTA through Reimbursement Request #24 (as revised) dated 11/21/13, whether or not yet paid by MARTA or received by the City;
2. Available amounts do not reflect costs that are encumbered (under purchase order) but not yet expended, and are thus still eligible for reimbursement;
3. Available amounts do not reflect costs that are expended but not yet requested, and are thus still eligible for reimbursement.

STATE OF GEORGIA
COUNTY OF FULTON

A RESOLUTION TO APPROVE A THIRD AMENDMENT TO INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF SANDY SPRINGS AND THE METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY (MARTA) FOR EXTENSION OF TIME FOR EXECUTION OF TRANSIT RELATED INFRASTRUCTURE PROJECTS

WHEREAS, the Parties have determined that additional time will be required to complete the work contemplated by the Agreement and the Parties have agreed to amend the Agreement to extend the required completion date;

WHEREAS, by Resolution adopted, the City of Sandy Springs desires to enter into a Third Amendment to amend the Intergovernmental Agreement (IGA) with the Metropolitan Atlanta Rapid Transit Authority (MARTA) to extend the completion of this work from December 31, 2013 to **December 31, 2014** involving development and construction of transit related infrastructure projects at various locations within the City.

WHEREAS, upon adoption of this Resolution, the City Sandy Springs' Public Works Department staff will manage all applicable phases of these projects.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA

That they receive, accept, and affirm the authorization for the Mayor to execute a Third Amendment to Intergovernmental Agreement (IGA) with the Metropolitan Atlanta Rapid Transit Authority (MARTA) for the implementation of these transit related transportation improvement projects, with funding provided by MARTA.

RESOLVED this the 3rd day of December, 2013

Approved:

Eva Galambos, Mayor

Attest:

Michael Casey, City Clerk
(Seal)