



---

**CITY COUNCIL AGENDA ITEM**

---

**TO:** Mayor & City Council                      **DATE:** October 18, 2010

**FROM:** John McDonough, City Manager

**AGENDA ITEM:** Authorization for the Mayor and City Council to Apply for and Accept a Georgia Department of Transportation Gateway Grant

**MEETING DATE:** For Submission onto the October 19, 2010, City Council Regular Meeting Agenda

---

**BACKGROUND INFORMATION:** (Attach additional pages if necessary)

See attached:

Memorandum  
Resolution  
Support Materials

---

**APPROVAL BY CITY MANAGER:**                     J.M.                     APPROVED

\_\_\_\_\_ NOT APPROVED

**PLACED ON AGENDA FOR:**                     10/19/2010                    

**CITY ATTORNEY APPROVAL REQUIRED:** (  ) YES      (  ) NO

**CITY ATTORNEY APPROVAL:**                     [Signature]                    

**REMARKS:**                      **AGENDA ITEM NO. 10-264**



TO: John McDonough, City Manager

FROM: Thomas Black, Public Works Director

DATE: October 18, 2010, for Submission onto Agenda of the October 19, 2010, City Council Meeting

ITEM: Authorization for the Mayor and City Council to Apply For and Accept a Georgia Department of Transportation Gateway Grant.

---

***Recommendation:***

Public Works staff is requesting authorization from the Mayor and City Council to apply for a Gateway Grant from the Georgia Department of Transportation (GDOT) and, if awarded, to enter into a memorandum of agreement with GDOT for maintenance of the landscaping.

***Background:***

The Gateway Grant program is a state-funded grant of up to \$50,000 for installation of landscaping at key interchanges. Municipalities can apply for a single interchange each year and have 30 months from time of award to complete the project. The City obtained this grant in 2009 for the interchange of Northridge Road and GA 400. The current grant application deadline is October 29, 2010.

***Discussion:***

Public Works recommends that the city apply for the grant to improve the landscaping of the interchange of Abernathy Road at GA 400. This is a high visibility interchange with significant area to cover with landscaping. It will also provide visual continuity with the work currently underway for Northridge at GA 400. As an alternative, Public Works would recommend first Roswell Road at I-285 and then Riverside Drive at I-285.

***Alternatives:***

The alternative to applying for this grant is to retain the current landscaping at the proposed interchange.

***Financial Impact:***

The grant can only be used for the installation of an approved and permitted landscape plan. If awarded, the City through the Fulton Perimeter Center Improvement District (PCID) will have to produce a landscape plan for approval by the state. The 2009 grant's design contract was \$5,000 and was paid for through the grants matching budget. This landscape plan will be 100% paid for by the PCID. Additionally, the PCID will incur some ongoing cost to maintain the landscape installation.

***Attachments:***

- I. Sample memorandum of agreement
- II. Sample maintenance agreement

STATE OF GEORGIA  
COUNTY OF FULTON

**A RESOLUTION TO APPLY FOR A GATEWAY GRANT, AND UPON AWARD OF THE GRANT,  
ENTER INTO A MOWING AND MAINTENANCE AGREEMENT WITH THE GEORGIA  
DEPARTMENT OF TRANSPORTATION**

**WHEREAS**, it is necessary, from time to time, to establish policies, procedures and guidelines addressing the administration of a municipal government consistent with the US Constitution, Federal Statutes, alignment with Federal, Georgia's State Constitution, and the Charter for the City of Sandy Springs, and

**WHEREAS**, the City Manager directed the Department of Public Works to develop standard policies for recurring matters, to establish appropriate internal controls and legal compliance, and to provide for an efficient and effective means to serve constituents; and

**WHEREAS**, many roadside areas and median strips within the Georgia Department of Transportation rights-of-way must be maintained and attractively landscaped, and

**WHEREAS**, the Mayor and City Council wish to authorize the grant applicant to apply for a Gateway Grant from the Georgia Department of Transportation, and if awarded, to allow the Fulton Perimeter Center Improvement District (PCID) to fund the design of the landscaping plan and enter into a mowing and maintenance agreement between the City of Sandy Springs and the Georgia Department of Transportation.

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

That they hereby authorize the grant applicant to apply for a Gateway Grant and upon award of the grant, to fund the design of the landscaping plan through PCID and to enter into a mowing and maintenance agreement with the Georgia Department of Transportation.

**RESOLVED** this the 19<sup>th</sup> day of October, 2010.

Approved:

\_\_\_\_\_  
Eva Galambos, Mayor

Attest:

\_\_\_\_\_  
Michael Casey, City Clerk  
(Seal)

Vance C. Smith, Jr., Commissioner



**GEORGIA DEPARTMENT OF TRANSPORTATION**

One Georgia Center, 600 West Peachtree Street, NW  
Atlanta, Georgia 30308  
Telephone: (404) 631-1000

December 14, 2009

City of Sandy Springs  
7840 Roswell Road, Building 500  
Sandy Springs, GA 30350

RE: RIGHT OF WAY MOWING AND MAINTENCE AGREEMENT STATE ROUTE 400,  
M.P. 12.52 & 12.71, FULTON COUNTY, permit no. 09-2009-029-121, AMPS 743100

Dear Applicant:

Your Agreement has been approved by the Commissioner or a Designee. The work is to be performed on the DOT R/W which is located adjacent to the property on the W side of SR 400 beginning 1000 feet S of centerline of Northridge Road and fronting 1150 feet further N along the roadway.

By copy of this letter your approved copy of the agreement is being forwarded to our Area Engineer, Sebastian Nesbitt. It will be necessary for you or your representative to contact Lorna Andrews, Permit Inspector, (Phone: (770) 528-3231) approximately 24 hours before you plan to begin work to claim your agreement. At this time, the Permit Inspector will discuss with you construction methods, safety requirements, and details of the agreement. You or your contractor shall certify to the DOT Permit Inspector when claiming agreement or prior to beginning work, that the license or its contractor has the minimum amounts of current insurance coverage as required by the agreement. It will be the License's responsibility to provide evidence of insurance renewal at least fifteen (15) days prior to any expiration dates.

City of Sandy Springs  
December 14, 2009  
page 2

In conjunction with routine work performed under authorization of this agreement, the following shall also be applicable:

- (1) Grass shall be mowed no shorter than three (3) inches.
- (2) Fertilizer application to be based on soil test.
- (3) Use of any herbicides must be approved by the DOT prior to application.

You shall contact the Permit Inspector's Office each time (24hours in advance) you desire to exercise this agreement. The agreement will be held at the Area Engineer's office for 60 days. If you do not claim the agreement within 60 day period, it will be returned to this office and canceled. Your acceptance of the agreement will indicate to us your intention to comply with all stipulations and requirements of the agreement.

Sincerely,

Bryant Poole  
District Engineer



By: Katie Mullins  
District Access Engineer Supervisor

BP:KM:eb  
Cc: Keith Golden P.E., State Traffic Safety Design Administrator  
Attn: Daphne Cautela  
Sebastian Nesbitt, Area Engineer, Area 2  
Attn: Lorna Andrews

Rev. 03-01-09

**RIGHT OF WAY MOWING AND MAINTENANCE AGREEMENT**

**By and Between**

**THE**

**GEORGIA DEPARTMENT OF TRANSPORTATION**

**AND**

**City of Sandy Springs**

Permit no. 09-2009-029-121, AMPS 743100, Fulton County, SR 400, MP 12.52 & 12.71; City of Sandy Springs

**THIS AGREEMENT** made and entered into this 18<sup>th</sup> day of Nov, 2009

by and between the **DEPARTMENT** of Transportation, an agency of the State of Georgia, hereinafter alternately referred to as “**DEPARTMENT**” or “**LICENSOR**”, and City of Sandy Springs hereinafter referred to as “**LICENSEE**”.

**WHEREAS**, the **DEPARTMENT** desires to enter into a public/private partnership to perform certain services relating to mowing and trimming within **DEPARTMENT’S** right of way, hereinafter called the “**PROJECT**”, and

**WHEREAS**, the **LICENSEE** has represented to the **DEPARTMENT** that, if such permission is granted to the **LICENSEE**, **LICENSEE** shall bear all costs and liability associated with the **PROJECT**; and

**WHEREAS**, the **LICENSEE** has represented to the **DEPARTMENT** that they are qualified and experienced to provide such services and the **DEPARTMENT** has relied upon such representations;

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants as herein contained, it is agreed by and between the parties hereto that:

**ARTICLE I**  
**SCOPE OF PROJECT**

The **DEPARTMENT** shall permit the **LICENSEE** to perform or cause to be performed, the **PROJECT** consisting of certain services related to maintaining an identified section of the **DEPARTMENT'S** rights of way.

This permission shall be granted by the means of this Agreement for the entire scope of the **PROJECT**, as set forth herein.

The **PROJECT** location and concept as well as the duties and responsibilities of the **LICENSEE** are defined and set forth in Article XI **WORK PLAN** of this Agreement, and further enumerated and described in Exhibit A – Application and Permit for Special Encroachment. This document is attached hereto and incorporated by reference as if fully set out herein. The required Special Encroachment permit is to be approved and issued by the **DEPARTMENT**.

Should the **LICENSEE** desire that these maintenance services be performed by a third party, **LICENSEE** and the third party shall enter into subsequent agreement, whereby the **LICENSEE** shall assume all responsibility of repayment to the third party for those services to be rendered as set forth in Article XI **WORK PLAN**. The Agreement between **LICENSEE** and any third parties to this Agreement, shall meet all operational and administrative requirements, including the provisions of liability insurance, set forth by the **DEPARTMENT**, and all liability associated with the **PROJECT** shall be borne by **LICENSEE** and any third parties, as set forth in Article VIII, herein.

## **ARTICLE II**

### **EXECUTION OF CONTRACT AND AUTHORIZATION**

#### **TIME OF PERFORMANCE**

Time is of the essence in this agreement. The **LICENSEE** shall execute this Agreement and return it to the **DEPARTMENT** within ten (10 days) after receipt of contract forms from the **DEPARTMENT**.

The **LICENSEE** shall begin work on the **PROJECT** under this Agreement within thirty days after receiving a signed and executed copy of the Agreement.

Subject to the terms and conditions set forth in this Agreement, and upon execution of this Agreement, the **DEPARTMENT** grants the right to the **LICENSEE** to mow, trim, and maintain that specific section of right-of-way identified in this Agreement, and herein defined as the **PROJECT**.

The duration of this Agreement shall be indefinite unless terminated sooner by the **DEPARTMENT** or **LICENSEE**.

## **ARTICLE III**

### **SUBSTANTIAL CHANGES**

If, prior to the satisfactory completion of the services under this Agreement, any party materially alters the scope, character or complexity of the services from those required under the Agreement, a Supplemental Agreement shall be executed between the parties. It is understood, however, that **LICENSEE** shall not engage in any activities or conduct any work which would be considered to be outside the scope of the permission granted to **LICENSEE** by the

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

#### **ARTICLE IV**

#### **ASSIGNMENT**

It is understood by the **LICENSEE** that the work is considered personal and, except as provided for in Article I, **LICENSEE** agrees not to assign, sublet or transfer any or all of their interest in this Agreement without prior written approval of the **DEPARTMENT**.

#### **ARTICLE V**

#### **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 VI

### INSURANCE

Prior to beginning work, the LICENSEE shall obtain and certify to the DEPARTMENT that it has the following minimum amounts of insurance coverage:

- (a) Workmen's Compensation Insurance in accordance with the laws of the State of Georgia.
- (b) Public Liability Insurance in an amount of not less than one hundred thousand dollars (\$100,000) 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) on an account of any one occurrence, or proof of self insurance.
- (c) Property Damage Insurance in an amount of not less than fifty thousand dollars (\$50,000) from damages on account of any occurrence, with an aggregate limit of one hundred thousand dollars (\$100,000), or proof of self insurance.
- (d) 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 PROJECT. The LICENSEE shall furnish annually to the DEPARTMENT, certificates of insurance evidencing such coverage. These certificates shall also provide that the insurance will not be modified or canceled without a 30 day prior written notice to the DEPARTMENT. Failure by the LICENSEE to procure and maintain the insurance as set forth above shall be considered a default and cause for termination of this Agreement and forfeiture of the Performance and Payment Bonds. The LICENSEE shall, at least fifteen (15) days prior to the expiration date or dates of expiring policies, deposit certified copies of renewal, or new policies, or other acceptable evidence of insurance with the DEPARTMENT.

**ARTICLE VII**  
**COMPENSATION**

It is agreed that **LICENSEE** shall conduct all work at no cost to the **DEPARTMENT**, and without compensation from the **DEPARTMENT**. It is further agreed that any and all issues relating to compensation and payment shall be resolved by and between **LICENSEE** and any successors, subcontractors, or assigns thereto.

The **DEPARTMENT** and **LICENSEE** further agree that, should the **DEPARTMENT** be required to conduct any inspections and/or supervision of the **PROJECT** beyond that which would normally occur in the ordinary course of the **DEPARTMENT'S** maintenance activities, **LICENSEE** shall reimburse the **DEPARTMENT** for such inspection and supervision. The rate of reimbursement for the **DEPARTMENT'S** inspection and supervision shall in no case exceed a rate determined to be reasonable by the parties.

Should **LICENSEE** and the **DEPARTMENT** desire to change this agreement at a later date to provide for compensation to **LICENSEE**, or any successors or assigns thereto, such change shall only be permitted by a supplemental agreement as set forth in Article III herein. Any supplemental agreements involving compensation shall be subject to the review of the **DEPARTMENT'S** Legal Affairs Administrator, and must be approved in writing by the **DEPARTMENT**. 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.

**ARTICLE VIII**  
**RESPONSIBILITY FOR CLAIMS AND LIABILITY**  
**LICENSEE NOT AGENT OF DEPARTMENT**

**LICENSEE**, and all successors and assigns thereto, shall save harmless the **DEPARTMENT**, its officers, agents, and employees from all suits, claims, actions or damages of any nature whatsoever resulting from the performance of work assigned to **LICENSEE** under this Agreement. **LICENSEE** further agrees that they shall be fully responsible for injury or damage to landscaping within the right of way, and for any damage to the **DEPARTMENT'S** signs, structures, or roadway fixtures, if **LICENSEE** causes the damage. These indemnities shall not be limited by reason of the listing of any insurance coverage.

It is further understood and agreed that **LICENSEE**, or any successor or assigns thereto, in the conduct of any work involved in the **PROJECT**, shall not be considered the agent of the **DEPARTMENT** or of the State of Georgia.

**ARTICLE IX**  
**TERMINATION OF CONTRACT**

The **DEPARTMENT** may terminate this contract for just cause at any time by giving of thirty (30) days written notice of such termination. Upon receipt of such notice of termination, **LICENSEE** shall discontinue and cause all work under this contract to terminate upon the date specified in the said notice. In the event of such termination, the **DEPARTMENT** shall be paid for any amounts as may be due it as specified in Article VII up to and including the specified date of termination. **LICENSEE** shall have the right to terminate this contract at any time,

provided that such termination is first approved by the **DEPARTMENT**, and that the **DEPARTMENT** is reimbursed in full for all services rendered pursuant to Article VII.

**ARTICLE X**  
**COMPLIANCE WITH APPLICABLE LAW**

The undersigned certify that:

A. This Agreement is subject to applicable state and federal laws, standards, and rules and regulations.

B. 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.

C. 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.

The covenants herein contained shall, except as other wise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

## **ARTICLE XI**

### **WORK PLAN**

The maintenance plan for the gateway shall include the following:

- During growing season (April 1 – October 31), edge, mow and weed islands maintaining grass at specified height weekly
- During non-growing (November 1 – March 31) season, edge, mow and weed islands maintaining grass at specified height monthly
- Remove any trash and cigarette butts from islands weekly
- Bi-monthly add mulch and maintenance of plant materials as needed trimming to height not to interfere with traffic sight distance
- Apply fertilizer and herbicides as specified on a quarterly cycle (2 applications each)

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

Signed, Sealed, and Delivered this 18<sup>th</sup> day of November, 2009.

**GEORGIA DEPARTMENT OF TRANSPORTATION**

Vann C Smith Jr  
Commissioner or designee

ATTEST:

Kathryn Pfirmman  
Kathryn Pfirmman  
Treasurer

LICENSEE:

John McDonough  
(Title) City Manager

Sworn to before me this

14<sup>th</sup> day of OCTOBER, 2009.

Michael D Casey  
NOTARY PUBLIC  
My commission expires JAN. 11



**DEPARTMENT OF TRANSPORTATION  
STATE OF GEORGIA  
ATLANTA, GEORGIA  
30334-1002**

743100

110  
REV. 04/1982  
REV. 06/2000

Distribution  
(AFTER APPROVAL)  
White - Applicant  
Yellow - General Office  
Blue - District Engineer  
Green - Field Inspector



**(FOR DOT USE ONLY)**

District No. 7  
 State Highway No. 400  
 Milepost No. 12.52 and 12.71  
 County Fulton  
 Permit No. 09-2009-029-121

**APPLICATION AND PERMIT FOR SPECIAL ENCROACHMENT  
TO: GEORGIA DEPARTMENT OF TRANSPORTATION, ATLANTA, GEORGIA 30334-1002**

Application is hereby made by City of Sandy Springs 770/206-2574  
Name of Applicant (Area Code) Phone No.

7840 Roswell Road, Building 500 Sandy Springs, GA 30350  
Post Office Address City and State Zip Code

for permission to accomplish work on the Right-of-Way of STATE HIGHWAY NO. 400

U.S. Sandy Springs within the City Limits of Sandy Springs and in Fulton County,  
 in accordance with the ATTACHED PLANS and subject to the Rules and Regulations for Driveway and Encroachment Control on file  
 in the General Office of the Georgia Department of Transportation, and made a part hereof by reference thereto, and any SPECIAL  
 REQUIREMENTS set forth herein. The description of the proposed work is to:

To landscape islands of the Northridge Interchange at 400 for Dunwoody Place and Roberts Drive.

The proposed work site is located on the property on the W side of the highway beginning 1000 Feet,  
N. S. E. W. From Nearest Street  
S of the center line, of Northridge Road and Fronting 1150  
N. S. E. W. Nearest Street or Road Total Frontage Used  
 Feet further N along said Highway; and at mile post 12.52. Also on the E sd of hwy beg 1000' N of CL of Northridge Rd F 1200' f S  
N. S. E. W.  
 @ MP 12.71.

Permit requested this 20th day of August, 20 09.

JASON WECKERLY By Garrin Coleman  
Witness in Ink on All Copies Type or Print Name

Jason Weckerly Garrin M. Coleman  
Witness in Ink on All Copies Sign in Ink on All Copies

Title Manager Transportation Planning Division  
If Agent or Official for Applicant

**FORM TO BE COMPLETED BELOW THIS LINE BY GEORGIA DEPARTMENT OF TRANSPORTATION**

Non-Limited Access - Approval by District Office  Limited Access - Approval by General Office

is hereby approved subject to the revisions and additions shown in red on the attached  
 an copy and will remain dependent upon compliance with DOT's (1) depth of the mate-  
 ria shown in the "typical-pavement widening section" of this plan must be adhered to  
 well as all other special provisions. These depths will be checked even after this job  
 completed and if any deviations are found the applicant will be responsible for having  
 corrections made.

0 additional access point(s)  
 have been agreed to for future drives  
 to be allowed within the property  
 described above.

PERMIT GRANTED to perform the above-described work in accordance with REQUIREMENTS of the Georgia Department  
 of Transportation; this SEP 08 2009 day of 20.

*This permit is to be strictly construed and no work other than that specifically  
 described above is hereby authorized. The work authorized herein must begin  
 within three months from the date of approval and must become completed on  
 a schedule satisfactory to the department and not to exceed twelve months  
 from the date the permit is approved.*

DEPARTMENT OF TRANSPORTATION  
 STATE OF GEORGIA  
 By Vance C. Smalley  
**COMMISSIONER**  
Title

No modifications or changes may be made to the text of this permit, unless agreed upon in writing by the Department. A copy of  
 the form for this permit is on file with the Department's Office of Traffic Operations, General Office, and the language therein shall  
 be deemed to control in the event of any disputes concerning the specific provisions of this permit or any modifications to same.



## MEMORANDUM OF UNDERSTANDING

BETWEEN

The City of Sandy Springs, hereinafter called the "GRANTEE", and the Georgia Department of Transportation, hereinafter called the "DEPARTMENT",

RELATIVE TO

The GRANTEE assuming responsibility for tasks associated with design, administration, or plant installation, and maintenance for Special Encroachment permit application project name Northridge Road Gateway, hereinafter called the "PROJECT".

I. IT IS THE INTENTION OF THE PARTIES:

The GRANTEE fund 100% of cost for maintenance, design, administration, construction, equipment, or mitigation for the PROJECT.

II. IT IS AGREED:

- A. That plant material funding will be dependent upon the GRANTEE obtaining a special encroachment permit from the District Traffic Operations Office meeting appropriate safety, access, and design standards;
- B. That nothing contained herein shall obligate the DEPARTMENT to proceed with subsequent stages of the PROJECT.
- C. That the GRANTEE'S expenditure prior to execution of an Agreement with the DEPARTMENT for funding plant material of the PROJECT shall be at the sole cost and risk to the GRANTEE. Should the GRANTEE 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.

III. The GRANTEE shall Certify that they have read and understand T.O.P.P.S. document 6755-9 – Landscaping on the Right of Way and will comply in full with said provisions.

IV. The GRANTEE shall certify that the local government entity sponsor shall sign a Mowing and Maintenance Agreement to maintain the landscaped site for 50 years.

V. The GRANTEE shall submit a record of progress from start to completion, receipts showing how the PROJECT money was spent, and photos of the final implementation of the PROJECT to the Department's State Office of Maintenance along with a concise electronic presentation file for use at a Roadside Enhancement and Beautification Council meeting. The design activities shall be accomplished in accordance with the applicable guidelines of the American Association of State Highway and Transportation

Officials, hereinafter referred to as "AASHTO", and constructed in accordance with the DEPARTMENT's Standard Specifications Construction of Transportation Systems, Current Edition, PROJECT schedules; and applicable guidelines of the DEPARTMENT when portions of the project are on state routes.

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

VII. The GRANTEE shall follow the DEPARTMENT's procedures for identification of existing and proposed utility facilities on the PROJECT or parts of the PROJECT within the right of way of state routes. These procedures, in part, require all requests for existing, proposed, or relocated facilities to flow through the DEPARTMENT's District Access Management Supervisor and the District Utilities Engineer.

VIII. The GRANTEE will be responsible for performing the construction supervision and documentation for the project. At the discretion of the Department, additional erosion control measures will be performed on the project when deemed necessary by the Area Engineer.

IX. The GRANTEE shall be solely responsible for advertising and awarding the construction contract for the PROJECT.

X. The GRANTEE 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 GRANTEE pursuant to this AGREEMENT. The GRANTEE 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. The GRANTEE 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 GRANTEE pursuant to this AGREEMENT.

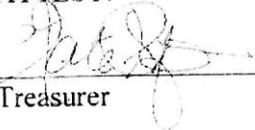
XI. Both the GRANTEE and the DEPARTMENT hereby acknowledge that time is of the essence. The GRANTEE shall have thirty (30) months from the Date the Memorandum of Agreement is signed after the Encroachment Permit is approved to expend the awarded funds. The Department reserves the right to reduce the Award Amount if the cost for the project is lower than the estimated construction cost or the scope of the project is reduced.

XIV. This AGREEMENT is made and entered into in the State of 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.

IN WITNESS WHEREOF, the DEPARTMENT and the GRANTEE have caused these presents to be executed under seal by their duly authorized representatives. The parties hereto have executed this Memorandum of Understanding, this 18<sup>TH</sup> day of NOVEMBER, 2008

DEPARTMENT OF TRANSPORTATION

  
Commissioner

ATTEST:  
  
Treasurer

  
Grantee  
  
Witness

NOVEMBER 18, 2008  
Date

## Georgia Department of Transportation

And

## City of Sandy Springs

### Memorandum of Agreement

THIS AGREEMENT is entered into the \_\_\_\_ day of \_\_\_\_\_, 2009, by and between the GEORGIA DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia, (hereinafter referred to as the "Department"), and City of Sandy Springs (hereinafter referred to as the "Grantee"). All obligations of the Grantee under this Agreement will be performed by the Grantee or the subcontractor of the Grantee.

#### WITNESSETH:

WHEREAS, the Grantee desires to obtain grant funding for a landscape enhancement and beautification project, (hereinafter sometimes referred to as the "Project"); and

WHEREAS, the Department desires to provide funding for roadside landscape enhancement and beautification projects,

NOW, THEREFORE, in consideration of these premises and the mutual promises and agreements hereinafter set forth, the parties hereby agree as follows:

1. Scope of Project: The Grantee agrees to provide, install and maintain the landscape Project as approved in the Department's Special Encroachment Permit. A Scope of Project, including a copy of the Department's Special Encroachment Permit and Mowing & Maintenance Agreement, is attached as Appendix A and incorporated herein by reference.

The GRANTEE agrees to accept and abide by the following guidelines as it relates to the Project:

- USDOT/FHWA, A Manual on Uniform Traffic Control Devices – current edition;
- GDOT Standard Specifications for Construction of Transportation Systems;
- GDOT Special Provision Sections 202, 700 and 702;
- ANSI Z 60.1 American Standard for Nursery Stock – current edition;
- GDOT Scenic Byway Program and Corridor Management Plan Guidelines and Requirements
- The American with Disabilities Act

**Landscape Guidelines** for the Project shall follow the policy established for *Landscaping on the DOT Right of Way* (TOPPS 6755-9) and/or as established by the Landscape Architecture unit of the Department's State Office of Maintenance.

The undersigned, hereby certifies that all requirements of the grant program are understood, and that all information provided in this grant application is true and correct, and represents the desires of the local government entity where the project will be installed.

2. Term of Agreement: A Proposed Budget is attached as Appendix B and incorporated herein by reference. This project must be completed by the Grantee within thirty (30) months from the date of the signed Agreement. Failure to meet this deadline will subject these funds to reallocation.

3. Compensation: The Department agrees to pay the Grantee a maximum amount of \$50,000.00 (Fifty thousand and 00/100 dollars) as a one-time grant in order to facilitate this work. Payment will be made to assist the Grantee in costs incurred for landscaping on the Project on a reimbursement basis. In addition, the Grantee agrees that no part of these funds will be used to pay indirect costs. The intent of this grant is to pay for plant material and associated installation costs. If the Grantee completes the work for less than the maximum amount established in Appendix B, the

Department is only obligated to reimburse the actual amount expended for the Project, but in no instances shall the Department be obligated to pay in excess of the maximum amount.

4. Usage: The Grantee agrees that the Department may photograph, display, or use any information submitted by the Grantee on the Project without the payment of any other fees, except for what is set forth in paragraph 3 herein.

5. Notices: Any notice under this Agreement shall be deemed duly given if delivered by hand (against receipt) or if sent by registered or certified mail – return receipt requested, to a party hereto at the address set forth below or to such other address as the parties may designate by notice from time to time in accordance with this Agreement.

If to the Department: Georgia Department of Transportation  
600 West Peachtree Street, NW  
Atlanta, GA 30308

Contact Person for Department: Bill Wright

If to the Grantee: City of Sandy Springs  
7840 Roswell Road, Building 500  
Sandy Springs, GA 30157

Contact Person for Grantee: John McDonough, City Manager

6. Indemnification: The undersigned shall be responsible for any and all damages to property or persons and shall 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 undersigned in the performance of work under this Grant Application.

The undersigned hereby indemnifies and holds harmless the Department, its officers, agents, and employees from and against any and all claims, damages, losses and expenses arising out of the undersigned's negligent acts, errors or omissions in the performance of this Agreement.

These indemnities shall not be limited by reason of the listing of any insurance coverage.

7. Entire Agreement: This Agreement constitutes the entire agreement and understanding between the parties hereto and replaces, cancels, and supersedes any prior agreements, understandings relating to the subject matter hereof; and all prior representations, agreements, understandings, and undertakings between the parties hereto with respect to the subject matter hereof are merged herein.

8. Amendment: The parties recognize and agree that it may be necessary or convenient for the parties to amend this Agreement so as to provide for the orderly implementation of all the undertakings described herein, and the parties agree to cooperate fully in connection with such amendments if and as necessary. However, no change, modification or amendment to this Agreement shall be effective unless the same is reduced to writing and signed by the parties hereto.

9. Governing Law: This Agreement is executed in the State of Georgia, and all matters pertaining to the validity, construction, interpretation and effect of this Agreement shall be governed by the laws of the State of Georgia.

IN WITNESS WHEREOF, the parties have caused the authorized representatives of each to execute this Agreement on the day and year first above written.

GEORGIA DEPARTMENT OF TRANSPORTATION:	ON BEHALF OF THE CITY OF SANDY SPRINGS:
By: _____ COMMISSIONER	By: _____ Title:
ATTEST:	ATTEST: _____ Title:
_____ Treasurer	FEI #: _____