





TO: John McDonough, City Manager

FROM: Thomas Black, Public Works Director

DATE: September 27, 2010, for Submission onto the Agendas of the October 5, 2010, City Council Meeting

ITEM: Consideration of Approval of an Intergovernmental Agreement (IGA) between the City of Sandy Springs and the City of Dunwoody for the Dunwoody Club Drive LARP Paving.

---

***Public Works Department's Recommendation:***

The Staff recommends that the Mayor and City Council consent to the partnership agreement between the City of Sandy Springs and the city of Dunwoody, Georgia, to resurface Dunwoody Club Drive from east of Spalding Drive for 2.61 miles to just east of Mount Vernon Road and to enter a contract agreement with the recommended contractor to perform the paving work. The IGA is being discussed and voted on in the Dunwoody City Council meeting on September 27<sup>th</sup>. Bids are being opened for the construction on September 30<sup>th</sup> at 2:00 pm. Results of both will be presented at the City Council meeting on October 5<sup>th</sup>.

***Background:***

Local Assistance Roads Program (LARP) is a program that Georgia Department of Transportation (GDOT) manages to assist Local Government Agencies in resurfacing local area roads. GDOT gives an award for resurfacing only and the City is responsible for all preparatory work, including any needed milling and patching. The program awarded the City Dunwoody Club Drive as described above which is a street in which Sandy Springs and the City of Dunwoody share a border along the centerline of the road. In Inter-governmental Agreement (IGA) has been proposed by the City Of Dunwoody Mayor and City Council to pay for their half of the cost associated with the LARP work.

***Discussion:***

The intent of the IGA is to allow the City to coordinate the overall execution of the project and be reimbursed by the City of Dunwoody for their portion of the project. The specific items needed for preparatory work include milling of the old road surface and patching to repair minor subsurface defects.

***Alternatives:***

If the City does not sign this agreement, there will be no formal agreement between the cities to direct the execution of this project. On the LARP projects, the City can refuse to accept the LARP funds and not accomplish these projects.

*Public  
Works*

***Financial Impact:***

The City will be responsible for the preparatory work for Sandy Springs half of the LARP work and handle the project management for the execution of the work. GDOT will fund approximately \$141,000 as reimbursement for the resurfacing only. The Public Works Department will oversee the contract through its completion. Funds for this work are available in the Pave On program.

***Attachments:***

- I. Exhibits
  - A. Inter-Governmental Agreement (to be provided)
- II. Resolution

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 applied for and received up to \$141,030 in Local Assistance Road Program (LARP) funding from the Georgia Department of Transportation to resurface Dunwoody Club Drive from east of the intersection of Spalding Drive to a point 2.69 miles east of the intersection; and

WHEREAS, the total cost of the project is estimated to be \$625,000, with the cost of Dunwoody’s share of the project after LARP reimbursement estimated to be \$234,000.

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

### WORK

The work will consist of milling 2 inches of asphalt and placing 2 inches of 12.5 mm Superpave asphalt, patching as needed, striping and all required traffic control. All work shall be completed in accordance with Georgia Department of Transportation Standard Specifications (current edition).

## ARTICLE 3

### 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 4

### 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 30 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 5

### TERM OF AGREEMENT

This Agreement shall commence upon execution by all parties to this Agreement and shall continue in effect until final completion of the project but not for a period of more than twelve (12) months.

## ARTICLE 6

### 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 7

### 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 8

### AMENDMENT

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

## ARTICLE 9

### 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 10

### BINDING EFFECT

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

## ARTICLE 11

### CONFLICT RESOLUTION

The City of Dunwoody has the right to have stop work upon providing Notice to the City of Sandy Springs if the Project is not being performed, in Dunwoody's sole discretion, to any standard specified by the City of Dunwoody. In such an event, if work is stopped, the Public Works Directors of the Participating Cities will resolve the conflict within 36 hours. If no agreement can be reached within the specified time period, the District 7 Engineer for the Department of Transportation shall be authorized to adjudicate the dispute. The adjudication process setfor herein shall not bar any Participating City to elect any other remedy allowed by law.

## ARTICLE 11

### INDEMNIFICATION

It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law. Only to the extent permitted by law, shall the City of Dunwoody defend, indemnify and hold harmless the City of Sandy Springs and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the City of Dunwoody or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the negligent performance of this Agreement by the City of Dunwoody, its employees, officers and agents. The City of Dunwoody shall promptly notify the City of Sandy Springs of each claim, cooperate with the City of Sandy Springs in the defense and resolution of each claim and not settle or otherwise dispose of the claim without the City of Sandy Springs' participation.

It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law. Only to the extent permitted by law, shall the City of Sandy Springs defend, indemnify and hold harmless the City of Dunwoody and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the City of Sandy Springs or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the negligent performance of this Agreement by the City of Sandy Springs, its employees, officers and agents. The City of Sandy Springs shall promptly notify the City of Dunwoody of each claim, cooperate with the City of Dunwoody in the defense and resolution of each claim and not settle or otherwise dispose of the claim without the City of Dunwoody's participation.

The indemnification provisions of this Agreement shall survive termination of this Agreement for any claims that may be filed after the termination date of the Agreement provided the claims are based upon actions that occurred during the term of this Agreement.

ARTICLE 12

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 13

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 shall be Fulton or DeKalb County Superior Court.

ARTICLE 14

NOTICE

Notice may be given by a participating City or its attorney, or its Agent herein named, and shall be given by mail or by hand delivery to 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

STATE OF GEORGIA  
COUNTY OF FULTON

**A RESOLUTION TO APPROVE THE AWARD OF CONTRACT NO. T-3000  
DUNWOODY CLUB DRIVE LARP PAVING AND INTER-GOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF SANDY SPRINGS AND THE CITY OF DUNWOODY, GEORGIA.**

**WHEREAS**, it is necessary, from time to time, to establish policies, procedures and guidelines consistent with 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 Department of Public Works, in response to the guidance provided by the City Manager, has prepared the Dunwoody Club Drive LARP Contract and coordinated the inter-governmental agreement, 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**, upon adoption of this Resolution, staff will incorporate the maintenance of the resurfaced streets into the City's Pavement Management Program.

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

Have reviewed and approved the award of the contract to XXX and approval of the inter-governmental agreement with the City of Dunwoody.

The financial impact to the City of Sandy Springs for the approval of the Dunwoody Club Drive LARP Contract Bid No. xx-xxx is \$\$\$.

**IT IS FURTHER RESOLVED** that the Mayor and City Council acknowledge that the City Manager, in order to assure the effectiveness of pavement management, will periodically refine policies, procedures, and guidelines and keep the Mayor and Council informed of any changes as they occur.

**RESOLVED** this the 5<sup>th</sup> day of October 2010.

Approved:

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

Attest:

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