

**INTERGOVERNMENTAL AGREEMENT
BETWEEN FULTON COUNTY, GEORGIA AND CITY OF JOHNS CREEK, GEORGIA
TO CREATE PUBLIC ART UTILIZING STEEL MATERIAL FROM HISTORIC
ROGERS BRIDGE**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is entered into this 25th day of April, 2022, between Fulton County, Georgia (“County”), a political subdivision of the State of Georgia, and the City of Johns Creek, Georgia (“City”), a municipal corporation lying wholly within the County.

WHEREAS, the parties to this Agreement are both governmental units; and

WHEREAS, the County and the City desire to maintain a mutually beneficial, collaborative, efficient and cooperative relationship that will promote the interests of the citizens of both jurisdictions; and

WHEREAS, in 1979, the Fulton County Board of Commissioners established the Fulton County Arts Council to enhance the quality of life of Fulton County residents; and

WHEREAS, the Fulton County Arts Council and the Fulton County Department of Arts & Culture, collectively, serve as Fulton County’s apparatus to support cultural programs and the agency which provides services to Fulton County based nonprofit arts organizations and Fulton County residents including residents of Johns Creek; and

WHEREAS, the County and the City believe the arts are essential to the quality of life of their citizens and to the economic and social health of their communities; and

WHEREAS, on December 4, 2019 (via Agenda Item # 19-0986), the County and the City entered an Intergovernmental Agreement, along with the City of Duluth and Gwinnett County, for the replacement of the historic Rogers Bridge; and

WHEREAS, as part of the creation of the new bridge and public walking trail over the Chattahoochee River, the historic Rogers Bridge was removed in October 2021; and

WHEREAS, the County and the City desire to partner to create public art by one or more artists to ensure that the steel materials from the historic Rogers Bridge is preserved and enjoyed by future generations in recognition of the critical role that the bridge served in Fulton County’s and Johns Creek’s respective history; and

WHEREAS, Article IX, § 3, Paragraph I(a) of the Georgia Constitution authorizes the County and City to enter into an intergovernmental agreement for the provision of facilities or services which they are authorized by law to provide, including for arts programs; and

WHEREAS, the Fulton County Department of Arts & Culture has experience and expertise in selection of artists for public art projects.

NOW, THEREFORE, in consideration of the following mutual obligations, the County and the City agree as follows:

**ARTICLE 1
CREATION OF PUBLIC ART**

- 1.1 This Agreement will govern the creation of public art utilizing the steel material from the historic Rogers Bridge.
- 1.2 To ensure the resultant art product meets the needs of the parties, a Selection Panel, including an elected official from both parties, will determine the artist(s) and public art project(s).
 - 1.2.1 The Selection Panel will include voting members and non-voting members.
 - 1.2.1.1 The voting members will include one elected official from the Fulton County Board of Commissioners and one elected official from the Johns Creek City Council.
 - 1.2.1.2 The non-voting members will include representatives from the Fulton County Arts Council, art professionals, staff from relevant Departments of each party, and community representatives. Community representatives are anticipated to include individuals involved with the Johns Creek Historical Society, Johns Creek Beautification, Johns Creek Arts Center, and the Johns Creek Convention and Visitors Bureau.
- 1.3 The selection process for artists will begin with an Expression of Interest from which eligible applications will be provided to the Selection Panel for review. The shortlisted finalists will be invited to develop detailed proposals for Selection Panel review.
- 1.4 The Fulton County Department of Arts & Culture and City staff will present the recommendations of the Selection Panel for contract award(s) to the Fulton County Board of Commissioners and Johns Creek City Council for approval.
- 1.5 Following the commission of the public art, it is anticipated the Parties will enter into an Intergovernmental Agreement to recognize the joint (City and County) ownership of the public art and maintenance responsibilities. It is anticipated the County will perform a routine inspection of the public art at least once per year by a qualified art conservator in an effort to provide maintenance recommendations. It is anticipated the owner of the land on which the public art is situated (either the City or the County) will be responsible for insuring the public art and any necessary maintenance of the public art.
- 1.6 Following the commission of the public art, the Selection Panel will meet to discuss and make recommendations as to appropriate uses for any remaining pieces of the historic Rogers Bridge steel.

**ARTICLE 2
EFFECTIVE DATE/ TERMINATION**

The Agreement shall be effective upon the latest date approved by either of the Parties (“Effective Date”).

The Agreement shall commence on the Effective Date and will terminate two years later, unless otherwise terminated pursuant to Article 10 herein.

**ARTICLE 3
DUTIES AND RESPONSIBILITIES**

Pursuant to this Agreement, each party shall provide the following enumerated services for the selection of artists and creation of public art project(s):

3.1 The County, through the Fulton County Department of Arts & Culture, shall be responsible for:

- a) Running the logistics of the selection process for the artists including preparing the Expression of Interest to call for artists and conveying the Selection Panel to review resumes and work samples as well as subsequent review of detailed proposals from finalists.
- b) Reviewing the decision of the Selection Panel and preparing the recommendation for consideration by the Fulton County Board of Commissioners.
- c) Otherwise cooperating with the City in the performance of this Agreement and providing the City such documentation and information as it may reasonably request to facilitate the performance of its duties under this Agreement.

3.2 The City shall be responsible for:

- a) Sharing the Call for Artist / Expression of Interest as released by Fulton County.
- b) Arranging a date and time for the finalists to visit the historic Rogers Bridge steel material.
- c) Reviewing the decision of the Selection Panel and preparing the recommendation for consideration by the Johns Creek City Council.
- d) Otherwise cooperating with the County in the performance of this Agreement and providing the County such documentation and information as it may reasonably request to facilitate the performance of its duties under this Agreement.

**ARTICLE 4
COMPENSATION AND CONSIDERATION**

4.1 On January 19, 2022, via Item 22-0050, the Fulton County Board of Commissioners allocated \$150,000.00 towards the creation of public art from the historic Rogers Bridge steel as part of the County's adopted Fiscal Year 2022 Budget.

4.2 The City of Johns Creek has allocated \$50,000.00 of Tourism Product Development funds for the creation of public art from historic Rogers Bridge steel as part of the City's Fiscal Year 2022 Budget.

4.3 The intent of the parties is to cover the actual cost of the artist selection and created public art, including any needed foundation(s) for the public art and installation costs, based on the overall budget of \$200,000.00.

4.4 By executing this Agreement, each Party agrees that it has taken all necessary steps to encumber the funds stated in this part to be used for the commission of the artwork.

4.5 If the actual costs are anticipated to be higher than the authorized \$200,000.00 budget, further authorization is required by the parties.

ARTICLE 5 LEGAL RESPONSIBILITIES

Nothing herein shall be construed as a waiver of the County's or the City's sovereign immunity as governmental bodies, or a waiver of any governmental immunities available to the Parties' officers, officials, employees or agents.

ARTICLE 6 EMPLOYMENT STATUS

6.1 All County personnel assigned under this Agreement are and will continue to be employees of the County for all purposes, including, but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions.

6.2 All City personnel assigned under this Agreement are and will continue to be employees of the City, or contracted personnel based on other existing arrangements, for all purposes, including, but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions.

ARTICLE 7 RECORDKEEPING AND REPORTING

7.1 The Fulton County Department of Arts & Culture shall be the central repository for all project records and make available public records as defined and required by the Georgia Open Records Act, O.C.G.A. § 50-18-70, *et seq.*, O.C.G.A. § 21-2-51 and O.C.G.A. § 21-2-72, now and as they may be amended hereafter. During the term of this Agreement, the County will continue to comply with the applicable provisions of the Georgia Open Records Act.

With a copy to: Fulton County Office of the County Attorney
Attn: County Attorney
141 Pryor Street SW, Suite 4038
Atlanta, Georgia 30303

If to the City: City Manager
11360 Lakefield Drive
Johns Creek, GA 30097

With a copy to: City Attorney
11360 Lakefield Drive
Johns Creek, GA 30097

**ARTICLE 12
NON-ASSIGNABILITY**

Neither party shall assign any of the obligations or benefits of this Agreement.

**ARTICLE 13
ENTIRE AGREEMENT**

The Parties acknowledge, one to the other, that the terms of this Agreement constitute the entire understanding and Agreement of the parties regarding the subject matter of the Agreement. This Agreement constitutes the entire understanding and agreement between the Parties concerning the subject matter of this Agreement, and supersedes all prior oral or written agreements or understandings. No representation oral or written not incorporated in this Agreement shall be binding upon the City or the County. All parties must sign any subsequent changes in the Agreement.

**ARTICLE 14
SEVERABILITY, VENUE AND ENFORCEABILITY**

If a court of competent jurisdiction renders any provision of this Agreement (or 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 of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the state of Georgia without regard to conflicts of law principles thereof. Should any party institute suit concerning this Agreement, venue shall be in the Superior Court of Fulton County, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

**ARTICLE 15
BINDING EFFECT**

This Agreement shall inure to the benefit of, and be binding upon, the respective parties' successors.

**ARTICLE 16
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.

(SIGNATURES APPEAR ON FOLLOWING PAGES)

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

FULTON COUNTY, GEORGIA

DocuSigned by:
Robert L. Pitts
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(SEAL)
Robert L. Pitts
Chair, Board of Commissioners

DocuSigned by:
Tonya R. Grier
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Tonya R. Grier
Clerk to Commission



APPROVED AS TO FORM:

DocuSigned by:
Y. Soo Jo
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Y. Soo Jo, County Attorney

APPROVED AS TO SUBSTANCE:

DocuSigned by:
David Manuel
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David Manuel
Director, Fulton County Department of
Arts & Culture

CITY OF JOHNS CREEK, GEORGIA

DocuSigned by:


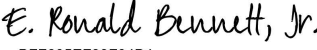
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John Bradberry
Mayor

Date: 06/03/2022

DocuSigned by:



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Allison Tarpley
City Clerk

APPROVED AS TO FORM:

DocuSigned by:


BFF605EF33F94B4...
E. Ronald Bennett, Jr.
City Attorney

APPROVED AS TO SUBSTANCE:

DocuSigned by:


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Ed Densmore
City Manager

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