

INTERGOVERNMENTAL AGREEMENT

This INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into as of the 4th day of December 2019, by and between the CITY OF DULUTH, GEORGIA, a municipal corporation in the State of Georgia ("DULUTH"), the CITY OF JOHNS CREEK, GEORGIA, a municipal corporation in the State of Georgia ("JOHNS CREEK"), FULTON COUNTY, a political subdivision of the State of Georgia ("FULTON"), and GWINNETT COUNTY, a political subdivision of the State of Georgia ("GWINNETT").

WITNESSETH:

WHEREAS, DULUTH and JOHNS CREEK are duly chartered municipal corporations authorized by law to enter into intergovernmental agreements; and

WHEREAS, FULTON COUNTY and GWINNETT COUNTY are political subdivisions of the state authorized by law to enter into intergovernmental agreements; and

WHEREAS, DULUTH, JOHNS CREEK, FULTON and GWINNETT each have an interest in replacing Rogers Bridge for the purpose of providing a public walking trail over the Chattahoochee River; and

WHEREAS, a replacement project at Rogers Bridge will replace a historic bridge originally constructed around 1900 to the benefit of DULUTH, JOHNS CREEK, FULTON and GWINNETT; and

WHEREAS, The Rogers Bridge Replacement Project will provide a benefit to residents and visitors of all parties to this agreement by allowing for connections to current and future recreational amenities; and

WHEREAS, the parties wish to work cooperatively to move towards replacement of Rogers Bridge; and

WHEREAS, Article IX, Section III, Paragraph I of the Constitution of the State of Georgia authorizes Intergovernmental Agreements between government entities for up to fifty (50) years for the provision of services or uses of property not otherwise prohibited by law.

NOW, THEREFORE, for and in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, DULUTH, JOHNS CREEK, FULTON and GWINNETT do hereby agree as follows:

additional State and/or Federal funding is not available to cover them. Change Orders requiring budget in excess of the original contributions from DULUTH, JOHNS CREEK, FULTON and GWINNETT will require written approval from each party.

- E. At project completion, DULUTH will reconcile actual unit cost items and prorate lump sum items, as needed, based upon actual units installed during construction of the project to determine DULUTH's, JOHNS CREEK's, FULTON's and GWINNETT's actual share of the project cost. DULUTH will reimburse JOHNS CREEK, FULTON, and GWINNETT for any project cost savings or invoice JOHNS CREEK, FULTON, and GWINNETT for any project cost overruns attributable to the project as described in this agreement and based upon the advances described in Section 3A above. DULUTH will reimburse JOHNS CREEK, FULTON, and GWINNETT for any project cost savings within sixty (60) days of project close out. If it is necessary for DULUTH to invoice JOHNS CREEK, FULTON, and GWINNETT for project cost overruns, JOHNS CREEK, FULTON, and GWINNETT will reimburse DULUTH within sixty (60) days of the invoice.

Section 4
Project Management/Accounting

The parties agree that DULUTH will provide all project management and financial accounting for the project. DULUTH shall report current project status and direction, at a minimum, monthly to JOHNS CREEK, FULTON and GWINNETT.

Section 5
Governing Law

This Agreement shall be deemed to have been made and shall be construed and enforced in accordance with the Constitution and the laws of the State of Georgia.

Section 6
Entire Agreement

This Agreement expresses the entire understanding and construction agreement between the parties hereto and supersedes any and all prior agreements, negotiations, and communications between the four parties hereto for this project. Notwithstanding the foregoing, DULUTH, JOHNS CREEK, FULTON and GWINNETT agree to remain bound by the previous intergovernmental agreements to provide funding for preconstruction efforts with regard to this project.

which may be rendered against DULUTH, JOHNS CREEK, FULTON, and GWINNETT or their commissioners, officers, officials, employees, and agents, arising there from. To the extent it is able under the terms of its agreements with GDOT and FHWA relating to this project DULUTH will ensure that the provisions of this Article are included in all contracts and subcontracts relating to the construction of this project.

Section 11 Insurance

Prior to beginning work, DULUTH shall cause its contractors to obtain and furnish certificates of insurance in which DULUTH, JOHNS CREEK, FULTON, and GWINNETT are named as an "Additional Insured." Minimum coverage amounts will be based on FHWA and/or GDOT requirements. If FHWA and/or GDOT do not provide minimum requirements for the construction contract for this project, the following minimum amounts of insurance will be required prior to the undertaking of any of the activities contemplated under this Agreement, as applicable:

- i. Workers' Compensation & Employer's Liability Insurance. Workers' Compensation Insurance in compliance with the applicable Workers' Compensation Act(s) of the state(s) wherein the work is to be performed or where jurisdiction could apply in amounts required by statutes. Employer's Liability Insurance, with limits of liability of not less than \$1,000,000 per accident for bodily injury or disease.
- ii. Commercial General Liability Insurance, including contractual liability insurance, products and completed operations, personal injury, bodily injury, property damage and advertising injury, and any other type of liability for which this Contract applies with limits of liability of not less than \$1,000,000 each occurrence/ \$2,000,000 policy aggregate for personal injury, bodily injury, and property damage. Commercial General Liability Insurance shall be written on an "occurrence" form. Insurance shall not contain Exclusion- Explosion, Collapse and Underground Property Damage
- iii. Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per accident for bodily injury and property damage. Insurance shall include all owned, non-owned and hired vehicle liability.
- iv. Umbrella Insurance with limits of liability excess of Employer's Liability Insurance, Commercial General Liability Insurance, and Automobile Liability Insurance in the amount of not less than \$3,000,000.
- v. Contractors' Pollution Legal Liability Insurance and/or Asbestos Legal Liability Insurance applicable to the work to be performed with limits not less than \$2,000,000 per occurrence or claim/ \$2,000,000 policy aggregate. Insurance policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors' Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including

Section 14
Assignment; Binding Effect.

The rights and obligations of the Parties under this Agreement are personal and may not be assigned without the prior written consent of DULUTH, JOHNS CREEK, FULTON, and GWINNETT. Subject to the foregoing, this Agreement shall be binding upon and enforceable against, and shall inure to the benefit of, the parties hereto and their respective successors and permitted assigns.

Section 15
Notices

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, return receipt requested, postage prepaid to the parties hereto at the following addresses or such other addresses designated by such party in writing:

Gwinnett County: County Administrator
 Gwinnett County Board of Commissioners
 75 Langley Drive
 Lawrenceville, Georgia 30046

With a copy to: County Attorney
 Gwinnett County Department of Law
 75 Langley Drive
 Lawrenceville, Georgia 30046

Fulton County: County Manager
 Office of the County Manager
 141 Pryor Street, SW 10th Floor
 Atlanta, Georgia 30303

With a copy to: County Attorney
 Office of the County Attorney
 141 Pryor Street, SW 10th Floor
 Atlanta, Georgia 30303

CITY OF DULUTH, GEORGIA

By: _____

Print Name and Title: Nancy Harris, Mayor

Date: _____

Attest: _____

Print Name and Title: Teresa Lynn, City Clerk

(SEAL)

FULTON COUNTY, GEORGIA

By: *Robert L. Pitts*

Robert L. Pitts, Chairman
Board of Commissioners

Date: 12/18/2019

Attest: *Tonya R. Greig*

Tonya R. Greig
Interim Clerk to the Commission



(SEAL)

APPROVED AS TO FORM

Patricia Berthel
Office of the County Attorney

ITEM # 19-0986 RM 121419
REGULAR MEETING