06-O -1331

AN ORDINANCE
BY

AN ORDINANCE AMENDING THE 2006 (INTERGOVERNMENTAL GRANT FUND) BUDGET BY ADDING TO ANTICIPATIONS AND APPROPRIATIONS TRANSPORTATION ENHANCEMENT FUNDS IN THE AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS ($500,000.00) FOR THE PURPOSE OF FUNDING CONSTRUCTION EXPENSES FOR CENTENNIAL PARK CONNECTOR TRAIL PHASE I PROJECT; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta ("City") desires to enter into a Memorandum of Understanding Agreement with the Georgia Department of Transportation ("GDOT") for the purpose of funding the Centennial Park Trail Phase I project; and

WHEREAS, the City desires to provide a safe and pedestrian friendly corridor accessible to the public; and

WHEREAS, the GDOT has appropriated Transportation Enhancement funds to provide eighty percent (80%) of the estimated project construction costs, in an amount not to exceed five hundred thousand dollars ($500,00.00); and

WHEREAS, the City has funded twenty percent (20%) of the estimated construction costs of this project with Transportation Impact Fees, Quality of Life Bond Funds, and/or other sources; and

WHEREAS, projects must be fully funded prior to the execution of contracts for construction, as well as to receive reimbursement from the GDOT; and

WHEREAS, the Budget Commission of the City has recommended increasing the receipts in the 2006 (Intergovernmental Grant Fund) Budget by five hundred thousand dollars ($500,000.00); and

WHEREAS, the leveraged Transportation Enhancement Funds totaling five hundred thousand dollars ($500,000.00) have been approved and committed to the City through the GDOT and Atlanta Regional Commission's fiscal year budget program.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

SECTION 1: That the Mayor is authorized to enter into said Agreement to accept the following grant, which will add to the anticipations in the 2006 (Intergovernmental Grant Fund) Budget, Department of Public Works and that such budget is amended as follows:

ADD TO ANTICIPATIONS

1B02J53X0210KW20 632101	Department of Transportation Federal Grant Entitlements	$500,000.00

ADD TO APPROPRIATIONS

1B02 M23D1018KW20 774001	Centennial Park Connector Trail Phase I	$500,000.00

SECTION 2: That the funds will be used in combination with the Transportation Program as administered by the Georgia Department of Transportation.

SECTION 3: That the Mayor is authorized to enter into an agreement for the construction of the Centennial Park Trail Phase I project.

SECTION 4: That all ordinances and parts of ordinances in conflict herewith are waived.

TRANSPORTATION ENHANCEMENT MEMORANDUM OF UNDERSTANDING

BETWEEN

The City of Atlanta, hereinafter called the "SPONSOR", and the Georgia Department of Transportation, hereinafter called the "DEPARTMENT",

RELATIVE TO

The SPONSOR assuming responsibility for tasks associated with Preliminary Engineering for project number **TEE-0008-00(132)**, hereinafter called the "PROJECT".

WHEREAS the PROJECT is a Transportation Enhancement (TE) approved for Federal-Aid funds with a required local match of at least 20% of the PROJECT's Total Cost; and

I. IT IS THE INTENTION OF THE PARTIES:

That the SPONSOR fund 100% of the Preliminary Engineering for the PROJECT; and that the DEPARTMENT may apply said expenditure toward the SPONSOR'S local match of the PROJECT'S Total Cost, subject to the DEPARTMENT and the Federal Highway Administration's approval.

II. IT IS AGREED:

A. That the SPONSOR certifies that local funds have been budgeted to undertake Preliminary Engineering for the PROJECT; and that an accounting system has been established to track project-specific Preliminary Engineering expenditures.
B. That prior to construction of the PROJECT, the SPONSOR will certify, to the DEPARTMENT, the amount of eligible expended funds allowable toward the PROJECT'S Total Local Match.
C. That if the PROJECT includes structures such as bridges or retaining walls, the SPONSOR will be required to use consultants pre-qualified with the DEPARTMENT.

III. IT IS AGREED:

A. That construction funding will be dependent upon the SPONSOR receiving historical/environmental clearances through the DEPARTMENT; certifying existing or acquired Right-of-Way to the DEPARTMENT; producing a complete set of biddable construction plans meeting appropriate safety, access, and design standards; and preparing and forwarding construction bid procedures and documents for the DEPARTMENT'S review.
B. That nothing contained herein shall obligate the DEPARTMENT to proceed with subsequent stages of the PROJECT.
C. That the SPONSOR'S expenditure prior to execution of an Agreement with the DEPARTMENT for construction of the PROJECT shall be at the sole cost and risk to the SPONSOR. Should the SPONSOR 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.

IV. The SPONSOR shall be responsible for all costs for the continual maintenance and the continual operations of the project, including any and all sidewalks and the grass strip between the curb and gutter and the sidewalk, within the PROJECT limits.

V. The SPONSOR shall Certify that they have read and understands the regulations for "CERTIFICATION OF COMPLIANCES WITH FEDERAL PROCUREMENT REQUIREMENTS, STATE AUDIT REQUIREMENTS, AND FEDERAL AUDIT REQUIREMENTS" as stated in attachment A of this AGREEMENT and will comply in full with said provisions. If the SPONSOR fails to comply, the DEPARMENT reserves the right to require reimbursement for any and all project expenses.

VI. The SPONSOR shall accomplish all of the design activities for the PROJECT. The design activities shall be accomplished in accordance with the DEPARTMENT's Plan Development Process, the applicable guidelines of the American Association of State Highway and Transportation Officials, hereinafter referred to as "AASHTO", the DEPARTMENT's Standard Specifications Construction of Transportation Systems, 2001 Edition, the DEPARTMENT's Plan Presentation Guide, PROJECT schedules, and applicable guidelines of the DEPARTMENT. The SPONSOR's responsibility for design shall include, but is not limited to the following items:

a. Prepare environmental studies, documentation, and reports for the PROJECT that show the PROJECT is in compliance with the provisions of the National Environmental Protection Act and Georgia Environmental Protection Act, as appropriate to the PROJECT funding. This shall include any and all archaeological, historical, ecological, air, noise, underground storage tanks (UST), and hazardous waste site studies required. The SPONSOR shall submit to the DEPARTMENT all environmental documents and reports for review and approval by the DEPARTMENT and the FHWA.

b. Perform all work required to obtain project permits, including, but not limited to, US Army Corps of Engineers 404 and Federal Emergency Management Agency (FEMA) approvals. These efforts shall be coordinated with the DEPARTMENT.

c. Prepare the PROJECT's drainage design including erosion control plans and the development of the hydraulic studies for the Federal Emergency Management Agency Floodways and acquisition of all necessary permits associated with the drainage design.

d. Provide certification, by a Georgia Registered Professional Engineer, that the construction plans have been prepared under the guidance of the professional engineer and are in accordance with AASHTO and DEPARTMENT guidelines.

e. Failure of the SPONSOR to follow the DEPARTMENT's Plan Development Process will jeopardize the use of Federal funds in some or all of the categories outlined in this AGREEMENT, and it shall be the responsibility of the SPONSOR to make up the loss of that funding.

VII. All Primary Consultant firms hired by the SPONSOR to provide services on the PROJECT shall be prequalified with the DEPARTMENT in the appropriate area-classes.

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

IX. The DEPARTMENT shall review and has approval authority for all aspects of the PROJECT. The DEPARTMENT will work with the FHWA to obtain all needed approvals with information furnished by the SPONSOR.

X. The SPONSOR shall be responsible for the design of all structure(s) and preparation of any required hydraulic and hydrological studies within the limits of this PROJECT in accordance with the DEPARTMENT's policies and guidelines. The SPONSOR shall perform all necessary survey efforts in order to complete the design of the structure (s) and prepare any required hydraulic and hydrological studies. The final structure plans shall be incorporated into this PROJECT as a part of this AGREEMENT.

XI. The SPONSOR shall follow the DEPARTMENT's procedures for identification of existing and proposed utility facilities on the PROJECT. These procedures, in part, require all requests for existing, proposed, or relocated facilities to flow through the DEPARTMENT's Project Liaison and the District Utilities Engineer.

XII. The SPONSOR shall address all railroad concerns, comments, and requirements to the satisfaction of the DEPARTMENT.

XIII. Upon the SPONSOR's determination of the rights of way required for the PROJECT and the approval of the right of way plans by the DEPARTMENT, the necessary rights of way for the PROJECT shall be acquired by the SPONSOR. Right of Way acquisition shall be in accordance with the law and the rules and regulations of the FHWA including, but not limited to, Title 23, United States Code; 23 CFR 710, et. seq., and 49 CFR Part 24, and the rules and regulations of the DEPARTMENT. Failure of the SPONSOR to follow these requirements may result in the loss of Federal funding for the PROJECT and it will be the responsibility of the SPONSOR to make up the loss of that funding. All required right of way shall be obtained and cleared of obstructions, including underground storage tanks, prior to advertising the PROJECT for bids. The SPONSOR shall further be responsible for making all changes to the approved right of way plans, as deemed necessary by the DEPARTMENT, for whatever reason, as needed to purchase the right of way or to match actual conditions encountered. The SPONSOR shall be responsible for certifying the Right of Way.

XIV. Upon completion and approval of the PROJECT plans and bid documents, the Department will authorize the SPONSOR to advertise the project for bids. The SPONSOR shall be solely responsible for advertising and awarding the construction contract (subject to the Department's recommendation) for the PROJECT.

XV. The SPONSOR shall review and make recommendations concerning all shop drawings prior to submission to the DEPARTMENT. The DEPARTMENT shall have final authority concerning all shop drawings.

XVI. The SPONSOR 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 SPONSOR pursuant to this AGREEMENT. The SPONSOR 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. Failure by the SPONSOR to address the errors or deficiencies within 30 days shall cause the SPONSOR to assume all

responsibility for construction delays caused by the errors and deficiencies. All revisions shall be coordinated with the DEPARTMENT prior to issuance. The SPONSOR 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 SPONSOR pursuant to this AGREEMENT.

XVII. Both the SPONSOR and the DEPARTMENT hereby acknowledge that time is of the essence. The Sponsor shall have the project ready to bid within two years from the Date of Award of Funds.

XVIII. This AGREEMENT is made and entered into in FULTON COUNTY, 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.

IV. IT IS AGREED:

A. That the SPONSOR as the sub-recipient of Federal financial assistance will submit a copy of audited financial statements within 30 days of publication (in compliance with OMB Circular A-133), for all fiscal periods in which the Federal sub-grant funds are expended. GDOT reserves the right to take administrative action if the SPONSOR is unresponsive.

Financial Statements will be submitted to:

Georgia Department of Transportation
Financial Integrity Reporting Support Team
No. 2 Capitol Square, Room 304
Atlanta, Georgia 30334-1002
or
first@dot.state.ga.us

IN WITNESS WHEREOF, the DEPARTMENT and the SPONSOR have caused these presents to be executed under seal by their duly authorized representatives. The parties hereto have executed this Memorandum of Understanding, this _____ day of _____ , 200_.

RECOMMENDED:

_____
State Transportation Planning Administrator

_____
Director, Transportation Planning, Data & Intermodal Development Division

_____
Chief Engineer

DEPARTMENT OF TRANSPORTATION

BY: _____
Commissioner

ATTEST:

_____
Treasurer

REVIEWED AS TO LEGAL FORM:

_____
Office of Legal Services

City of Atlanta

BY: _____
Name
Title

Signed, sealed and delivered this _____ day of _____, 200_, in the presence of:

_____
Witness

_____
Notary Public

This Agreement approved by the _____ (SPONSOR) at a meeting held at

_____
this _____day of _____, 200_.

_____
City/County Clerk (as appropriate)

FEIN: _____

ATTACHMENT A

CERTIFICATION OF COMPLIANCE

I hereby certify that I am a principle and duly authorized representative of _____ whose address is _____and it is also certified that:

I. PROCUREMENT REQUIREMENTS

The below listed provisions of Federal Procurement requirements shall be complied with throughout the contract period:

(a) 49 CFR Part 18 Section 36
Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments – Procurement

(b) 23 CFR 635 Subpart A – Contract Procedures

II. STATE AUDIT REQUIREMENT

The provisions of Section 36-81-7 of the Official Code of Georgia Annotated, relating to the "Requirement of Audits" shall be complied with throughout the contract period in full such that:

(a) Each unit of local government having a population in excess of 1,500 persons or expenditures of $ 300,000.00 or more shall provide for and cause to be made an annual audit of the financial affairs and transactions of all funds and activities of the local government for each fiscal year of the local government.

(b) The governing authority of each local unit of government not included above shall provide for and cause to be made the audit required not less often than once every two fiscal years.

(c) The governing authority of each local unit of government having expenditures of less than $ 300,000.00 in that government's most recently ended fiscal year may elect to provide for and cause to be made, in lieu of the biennial audit, an annual report of agreed upon procedures for that fiscal year.

(d) A copy of the report and any comments made by the state auditor shall be maintained as a public record for public inspection during the regular working hours at the principal office of the local government. Those units of local government not having a principal office shall provide a notification to the public as to the

location of and times during which the public may inspect the report.

(e) The audits of each local government shall be conducted in accordance with generally accepted government auditing standards.

III. FEDERAL AUDIT REQUIREMENT

The provisions of OMB Circular A-133 issued pursuant to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156 shall be complied with throughout the contract period in full such that:

(a) Non-Federal entities that expend $ 500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133.

(b) Non-Federal entities that expend less than $ 500,000 a year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

(c) Except for the provisions for biennial audits provided in paragraphs (1) and (2) below, audits required shall be performed annually. Any biennial audit shall cover both years within the biennial period.

(1) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits biennially. This requirement must still be in effect for the biennial period under audit.

(2) Any non-profit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits biennially.

(d) The audit shall be conducted in accordance with Generally Accepted Government Auditing Standards.

_____ _____

Date Signature

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE **ATTN: GREG PRIDGEON**

Legislative Counsel (Signature):_Megan S. Middleton_____ Megan S Middleton

Contact Number:__6207_____

Originating Department: _Department of Public Works_____

Committee(s) of Purview: __Finance/Executive_____

Council Deadline:_May 30, 2006_____

Committee Meeting Date(s): June 14, 2006___ **Full Council Date:_June 19, 2006_**

Commissioner Signature David E. Scott, P.E. EKJB

CAPTION

AN ORDINANCE AMENDING THE 2006 (INTERGOVERNMENTAL GRANT FUND) BUDGET BY ADDING TO ANTICIPATIONS AND APPROPRIATIONS TRANSPORTATION ENHANCEMENT FUNDS IN THE AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS ($500,000.00) FOR THE PURPOSE OF FUNDING CONSTRUCTION EXPENSES FOR CENTENNIAL PARK CONNECTOR TRAIL PHASE I PROJECT; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT (if any)

Mayor's Staff Only

Received by Mayor's Office: 6-2-06 (date) Reviewed by: 6/5/06

Submitted to Council: 6/5/06 (date)

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(Do Not Write Above This Line)

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First Reading

Committee _____
Date _____
Chair _____
Referred To _____

Committee	Committee
Date	Date
Chair	Chair
Action Fav, Adv, Hold (see rev. side) Other	Action Fav, Adv, Hold (see rev. side) Other
Members	Members
Refer To	Refer To

Committee	Committee
Date	Date
Chair	Chair
Action Fav, Adv, Hold (see rev. side) Other	Action Fav, Adv, Hold (see rev. side) Other
Members	Members
Refer To	Refer To

FINAL COUNCIL ACTION

❑ 2nd ❑ 1st & 2nd ❑ 3rd

Readings

❑ Consent ❑ V Vote ❑ RC Vote

CERTIFIED

MAYOR'S ACTION

❑ CONSENT REFER
❑ REGULAR REPORT REFER
❑ ADVERTISE & REFER
❑ 1st ADOPT 2nd READ & REFER
☑ PERSONAL PAPER REFER

Date Referred 6/5/06
Referred To: Fin/Ex
Date Referred
Refferred To:
Date Referred
Referred To: