

AGREEMENT
BETWEEN
COBB COUNTY, GEORGIA
AND
THE CITY OF POWDER SPRINGS, GEORGIA
FOR
INTERSECTION IMPROVEMENTS

This Cobb Framework Agreement (“CFA”) is made and entered into the Effective Date, as defined herein, by and between COBB COUNTY, GEORGIA, a political subdivision of the State of Georgia (“COUNTY”), and the CITY OF POWDER SPRINGS, GEORGIA, a municipal corporation of the State of Georgia, acting by and through its Mayor and City Council (“CITY”). The COUNTY and the CITY are sometimes referred to herein individually as a (“Party”) and collectively as the (“Parties”). Any reference herein to the “DEPARTMENT” or “GDOT” shall mean the Georgia Department of Transportation, an agency of the State of Georgia.

WITNESSETH:

THAT WHEREAS, the COUNTY entered into a CFA with CITY on April 7, 2016 (hereinafter referred to as the “Prior CFA Agreement”) for services associated with Powder Springs Road at Flint Hill Road/Pine Grove Drive/Deercreek Drive Intersection Improvement Project, Project Number X2312; and

WHEREAS, the Prior CFA Agreement was amended on November 1, 2018 by CFA Amendment No. 1 (“CFA Amendment No. 1”) to complete intersection improvements at Powder Springs Road and Deercreek Drive Project, Project Number X2325; and

WHEREAS, the COUNTY and the CITY acknowledge that the Prior CFA Agreement and CFA Amendment No. 1 are hereby replaced in their entirety by this CFA Agreement; and

WHEREAS, Pursuant to Article 20 of the Prior CFA Agreement, obligations that should naturally survive the termination of the Prior CFA Agreement, as amended, shall so survive. The Parties shall remain responsible for the completion and fulfillment of any outstanding financial commitments specified within the Prior CFA Agreement and not otherwise satisfied before the termination of the Prior CFA Agreement; and

WHEREAS this CFA Agreement revises the roles, duties, and responsibilities of the COUNTY and CITY for services associated with the improvement of intersections at Powder Springs Road at Flint Hill Road and Pine Grove Drive (hereinafter referred to as "Project X2312") and sets out the roles, duties, and responsibilities of the COUNTY and CITY for services associated with the improvement of intersections at Powder Springs Road and Deercreek Drive (hereinafter referred to as "Project X2325"). Project X2312 and Project X2325 may be collectively referred to in this Agreement as the "PROJECTS", or individually unspecified as "PROJECT" and are both more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, the CITY will be the primary party to undertake, manage and oversee the design/engineering, right of way acquisition, utility relocation and construction phases of Project X2312 pursuant to the terms and conditions set forth in this agreement; and

WHEREAS, the COUNTY and the CITY are interested in furthering the transportation facility identified in the COUNTY's 2016 One Percent Special Local Option Sales Tax ("SPLOST") Transportation Improvements Program ("TIP") as the Powder Springs Road @ Flint Hill Road/Pinegrove Road/Deercreek Drive Intersection Improvement Project, Project Number X2312; and

WHEREAS, the COUNTY and the CITY together are willing to pay from their respective shares of the 2016 SPLOST TIP funds for the costs, fees, expenses and/or other charges related or attributable to the preliminary engineering and design work and the preparation of plans required to undertake or construct each phase or component of the PROJECTS including that design work occasioned by unexpected or contingent circumstances which, in the opinion of the COUNTY's engineering consultant and the parties hereto, dictate a change in the scope of either PROJECT ("PE Activities"); and

WHEREAS, the COUNTY and the CITY are willing to pay from their respective shares of the 2016 SPLOST TIP funds for the PROJECTS costs including but not limited to right of way acquisition, utility relocation, and/or construction activities required by the approved PROJECT plans; and

WHEREAS the Parties' budget for the total costs for the PROJECTS is One Million, Fifty Thousand and No/100 Dollars (\$1,050,000.00); and

WHEREAS, the total maximum financial contribution of the COUNTY for the PROJECTS is Five Hundred Fifty Thousand and No/100 Dollars (\$550,000.00) and the total maximum

financial contribution of the CITY for the PROJECTS is Five Hundred Thousand and No/100 Dollars (\$500,000.00), and the Parties will not be obligated to provide any additional funding except as may be specifically set forth and conditioned by an amendment or addendum to this CFA; and

WHEREAS, the COUNTY is willing to consider additional SPLOST funding contribution at the end of the 2016 SPLOST program if additional revenue is available with the approval of the COUNTY's Board of Commissioners; and

NOW THEREFORE, in consideration of the mutual promises made and of the benefits to flow from one party to the other, the receipt and sufficiency of which are hereby acknowledged, the COUNTY and the CITY do hereby agree each with the other as follows:

1. The COUNTY and the City together will fund the Concept Design Activities for the PROJECTS from their respective shares of 2016 SPLOST TIP funds. The Concept Design activities will be procured by the County through its public procurement policy with the consent and, as requested, assistance and participation of the City.

2. The COUNTY shall enter into an agreement with the Concept Design Consultant for the conceptual design work. The Consultant shall be prequalified with the DEPARTMENT in the appropriate areas-classes. The COUNTY shall pay to the Concept Design Consultant when due the invoice amounts approved by the PM according to the COUNTY's invoice guidelines.

3. The COUNTY will appoint a Project Manager (PM) who shall be primarily responsible for the direction and oversight of the Concept Design Consultant and Concept Design Activities,

for the administration and supervision of the Concept Phase, and for the review and approval of the related invoices submitted by the Concept Design Consultant. The PM shall report to the Director of the COUNTY's Department of Transportation, or his or her designee.

4. The COUNTY shall, through its Concept Design CONSULTANT, accomplish or cause to be accomplished the Concept Activities in a timely manner and in conformance with the DEPARTMENT's Plan Development Process, the applicable guidelines of the American Association of State Highway and Transportation Officials ("AASHTO"), the DEPARTMENT's Standard Specifications for the Construction of Transportation Systems, and all applicable design policies and requirements of the DEPARTMENT, the COUNTY and the CITY. All drafting and concept design work shall be done utilizing Microstation V8i and Inroads software, respectively, and shall be organized as per the DEPARTMENT's Plan Presentation Guidelines and Electronic Data Guidelines.

5. The CITY, upon request from the PM, shall furnish or obtain any information or documentation within its possession or control and required for any PROJECT review, approval, authorization or permit.

6. In addition to the Concept Design Activities, the COUNTY and the CITY together will fund the implementation and Construction Activities of Project X2325 for the improvements of the intersection at Powder Springs Road and Deercreek Drive from their respective shares of 2016 SPLOST TIP funds. Construction Activities of this intersection improvement includes right of way acquisition, utility relocation, and construction. The COUNTY shall be primarily responsible for

the implementation and completion of Project X2325 Construction Activities which shall include without limitation the following obligations and requirements to be coordinated or undertaken by qualified individuals in the employ of or retained by the COUNTY through its public procurement policy with the assistance, as requested, and consent of the CITY (PM, Concept Design Consultant or construction contractor):

- a. Compliance with all applicable procedures, rules and regulations for the identification of existing and proposed utility facilities and the relocation of any utility facility; and
- b. Any required coordination with the officials and/or staff of other agencies as to any accommodation or relocation request for existing or proposed utility facilities; and
- c. Any required coordination with and the submission for review and approval by other agencies of the proposed Project X2325 right of way plans; and
- d. Acquisition of Project X2325 rights of way as reflected on the approved plans and, if applicable, certification of the same to the appropriate state and/or federal agencies or departments in accordance with the pertinent laws, rules and regulations; and
- e. Removal of all obstructions from the required Project X2325 right of way, including but not limited to underground storage tanks, prior to the initiation of the COUNTY's public procurement process for the construction contractor; and
- f. Preparation of all shop drawings, if required, for Project X2325 and the coordination of review and approval of the same by any applicable state and/or federal agency; and

g. Implementation and construction of Project X2325 in accordance with the final plans reviewed by the parties and approved by the COUNTY and, as applicable, any state and/or federal agency.

The COUNTY and the CITY shall, through their respective contributions, share the costs of the Construction Activities including the foregoing items for Project X2325, as identified in Exhibit “B” attached hereto and incorporated herein by reference.

7. The CITY shall be responsible for Project X2312 PE Activities and CONSTRUCTION Activities.

8. The CITY shall undertake, supervise and oversee the design/engineering (including environmental reports/documentation, underground storage tanks, hazardous waste sites, permits, variances, erosion control plans and permitting, hydraulic studies and reports, public meetings and communication, and surveying) right of way acquisition, utility relocation and construction phases of Project X2312.

9. The CITY shall ensure design plans for Project X2312 comply with all applicable federal, state and local design specifications, standards, guidelines and directives. These applicable guidelines include the American Association of State Highway and Transportation Officials (“AASHTO”), the DEPARTMENT’S Standard Specifications for the Construction of Transportation Systems, and all applicable design policies and requirements of the DEPARTMENT, the COUNTY and the CITY.

10. The CITY shall be responsible for the implementation and completion of Project X2312 activities which shall include without limitation the following obligations and requirements to be coordinated or undertaken by qualified individuals in the employ of or retained by the CITY through its public procurement policy:

- a. Compliance with all applicable procedures, rules and regulations for the identification of existing and proposed utility facilities and the relocation of any utility facility; and
- b. Any required coordination with the officials and/or staff of other agencies as to any accommodation or relocation request for existing or proposed utility facilities; and
- c. Any required coordination with and the submission for review and approval by other agencies of the proposed right of way plans; and
- d. Acquisition of all Project X2312 rights of way as reflected on the approved plans and, if applicable, certification of the same to the appropriate state and/or federal agencies or departments in accordance with the pertinent laws, rules and regulations; and
- e. Removal of all obstructions from the required Project X2312 right of way, including but not limited to underground storage tanks, prior to the initiation of the CITY's public procurement process for the construction contractor; and
- f. Preparation of all shop drawings required for Project X2312 and the coordination of review and approval of the same by any applicable state and/or federal agency; and

g. Implementation and construction of Project X2312 in accordance with the final plans reviewed by the parties and approved by the COUNTY and, as applicable, any state and/or federal agency.

The COUNTY and the CITY shall, through their respective project contributions, share the costs of Project X2312 Activities including the foregoing items, as depicted in Exhibit "B" attached hereto and incorporated herein by reference.

11. The CITY shall be responsible for acquiring all right of way for Project X2312. The City shall purchase right of way, permanent easement, or temporary easement needed for the project within the COUNTY jurisdiction and convey to COUNTY by quitclaim deed once all COUNTY parcels are settled and project construction is completed and accepted by the COUNTY. See EXHIBIT C, Quitclaim Deed.

12. In addition to the CITY overseeing and supervising the project construction of Project X2312, the COUNTY will inspect project construction and installation activities for compliance with the COUNTY's roadway construction, standards, procedures, specifications and guidelines. The COUNTY shall also be included and in attendance of all construction related meetings, including but not limited to pre-construction conference, weekly/monthly progress meetings, and final inspections and final field walk through.

13. The CITY'S monthly share of the PROJECT costs is estimated to be Six Thousand, Nine Hundred Forty-Four and 44/100 Dollars (\$6,944.44). The COUNTY shall, pursuant to the Intergovernmental Agreement between the parties for the use and distribution of 2016 SPLOST

TIP Proceeds, retain this amount from each transmittal of the CITY's monthly allotment of such 2016 SPLOST TIP revenues. To date, the COUNTY has withheld 35 monthly installments for a total of \$243,055.40, and shall upon execution of this agreement, retain \$54,191.57 for the CITY's share of the costs incurred by the COUNTY which totals \$112,899.09. The COUNTY will release \$445,808.43 to the CITY (\$188,863.83 of monies currently held by the COUNTY plus \$256,944.60 which constitutes the balance of the CITY's financial contribution to the PROJECT). In addition, the COUNTY shall remit to the CITY an amount not to exceed \$476,292.48 which is the balance of the COUNTY's financial contribution to the PROJECT.

14. Notwithstanding any provision or language to the contrary herein, the CITY understands, acknowledges and agrees that the total maximum financial contribution of the COUNTY for the PROJECTS is Five Hundred Fifty Thousand and No/100 Dollars (\$550,000.00). The COUNTY will not be obligated to provide now or hereafter any additional funding except as may be specifically set forth and conditioned by an amendment or addendum to this CFA. The COUNTY will consider additional SPLOST funding contribution at the end of the 2016 SPLOST program if additional revenue is available with the approval of the COUNTY's Board of Commissioners. Likewise, the COUNTY understands, acknowledges and agrees that the total maximum financial contribution of the CITY for the PROJECTS is Five Hundred Thousand and No/100 Dollars (\$500,000.00). The CITY will not be obligated to provide now or hereafter any additional funding except as may be specifically set forth and conditioned by an amendment or addendum to this CFA. Any understanding or agreement between the parties as to the additional

or future funding of the PROJECTS and the respective and associated responsibilities and commitments of the parties with respect thereto shall be in writing and shall be reflected in a subsequent amendment or addendum to this CFA.

15. The project phases including the funding commitments and responsibility of each party are as identified in Exhibit "B" attached hereto and incorporated herein by reference for the PROJECTS. Any overage amounts or additional costs beyond those identified in Exhibit B and agreed to in writing by the parties shall be apportioned in accordance with the percentages reflected therein.

16. After review and approval of the final Project X2312 plans and related documents by the COUNTY, and as applicable any other state or federal agency, the CITY shall solicit bids for construction of Project X2312. The CITY shall be responsible for the awarded contract to a qualified contractor in accordance with its public procurement policy.

17. Both the COUNTY and the CITY agree and acknowledge that their respective obligations as outlined and described herein will be fulfilled through services performed by third party consultants and independent contractors in accordance with COUNTY, CITY and, as applicable, DEPARTMENT and FHWA guidelines, directives, specifications, rules and regulations and pursuant to COUNTY control, oversight, supervision and approval. Each party shall, as a result, require all contractors to indemnify, defend, hold harmless and insure the COUNTY and the CITY from and against any claims, damages, actions, judgments, costs, penalties, liabilities, demands, requests for payment, loss and/or expenses, including attorneys fees

and litigation costs, caused by or attributable to any consultant's or contractor's negligent acts or omissions, or willful misconduct in the design, construction, or other services or activities related to the PROJECTS. If the PROJECTS are funded and constructed, this provision shall apply to the additional obligations of the COUNTY or the CITY set forth in any amendment or addendum hereto.

18. The Parties hereto acknowledge and agree that the obligations as set forth herein are contingent on the receipt of sufficient and adequate SPLOST revenues. Should the amount of said tax revenues decrease or be insufficient to fund all phases of the PROJECTS, the parties reserve the right either jointly or severally to terminate this Agreement or together to modify or reduce the scope of the PROJECTS accordingly.

19. The laws of the State of Georgia shall govern the construction, interpretation and enforcement of this CFA and its provisions. The parties shall bring any action at law or in equity related to this CFA and/or to construe, interpret or enforce the provisions hereof in the Superior Court of Cobb County, Georgia, or the United State District Court for the Northern District of Georgia, as applicable.

20. The term of this CFA shall commence on the date the last party hereto executes it ("Effective Date") and shall conclude at the earlier of the date of final acceptance of both PROJECTS by the COUNTY and CITY and, as applicable, GDOT, or the date on which the COUNTY and/or the CITY decide not to implement and construct either PROJECT. In no event shall the term of this CFA continue for a period longer than fifty (50) years from the Effective

Date. The foregoing provision notwithstanding, obligations that should naturally survive the termination or expiration of this CFA, as amended, shall so survive. The parties shall remain responsible for the completion and fulfillment of any outstanding financial commitments specified herein and not otherwise satisfied before the expiration or termination of this CFA.

21. This CFA, together with all exhibits and attachments hereto, constitutes the entire understanding between the parties, and as of its Effective Date, supersedes all other understandings or agreements including, but not limited to, the Prior CFA Agreement and CFA Amendment No. 1., whether oral or written, between the parties concerning the subject matter hereof. No oral promises, conditions, representations, understandings, interpretations or terms of any kind are in effect between the parties or have been offered as an inducement for either party to execute this document, and no other agreement, statement or promise relating to the subject matter of this CFA and not contained herein shall be valid or binding.

22. Notwithstanding any provision to the contrary herein, any obligations that should naturally survive the termination of the Prior CFA Agreement, as amended, shall so survive. The Parties shall remain responsible for the completion and fulfillment of any outstanding financial commitments specified within the Prior CFA Agreement and not otherwise satisfied before the termination of the Prior CFA Agreement.

23. All notices, demands and/or other communications required or permitted under this CFA shall be in writing and shall be sent by certified mail, return receipt requested with postage and fees prepaid to the addresses set forth below, and shall be deemed to be effective when actually

received or refused. Either party may change the address to which future notices or other communications shall be sent by notifying the other party.

If to County: DOT, Director
1890 County Services Parkway
Marietta, GA 30008

Cobb, County Manager
100 Cherokee Street, Suite 300
Marietta, GA 30090

If to CITY: Public Works Director
City of Powder Springs
3006 Springs Industrial Drive
Powder Springs, GA 30127

City Manager
City of Powder Springs
3006 Springs Industrial Drive
Powder Springs, GA 30127

24. If any term or provision herein, or any part or the application thereof, is determined to be invalid or unenforceable for any reason, the parties intend that such part or provision not affect the remaining provisions, and that the remainder of such term or provision, and all other terms and provisions of this CFA, remain valid, enforceable and in effect.

25. Each of the individuals executing this CFA on behalf of the COUNTY or the CITY represents to the other party that he/she has been authorized to do so by requisite action of the governing body of which he/she is a member.

26. This CFA is exclusively for the benefit of the COUNTY and the CITY and is not intended to provide any third party with or to give rise to or create any duty, remedy, claim, liability, reimbursement, cause of action, obligation or other right on behalf of such third party.

27. No provision of this CFA is intended to nor shall it be construed to relieve any consultant or contractor performing services in connection with the PROJECTS of any liability or of any obligation or duty to complete the work in a good, substantial and workmanlike manner.

28. No provision of this CFA is intended to nor shall it be construed in any way to waive the immunities and/or protections provided to either of the parties hereto by the Constitution and laws, rules and regulations of the State of Georgia.

29. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which collectively shall constitute one and the same instrument.

30. This CFA may not be modified, altered or amended except by a written document approved and executed by both Parties with the same degree of formality as this indenture.

31. Notwithstanding any provision to the contrary herein, this CFA shall not be assigned by either of the parties hereto without the prior written consent of the other party. Any assignment hereof must be in writing, and shall include an affirmative assumption by such assignee of the assignor's obligations hereunder.

32. Both the COUNTY and the CITY hereby acknowledge that time is of the essence for the obligations set forth herein.

33. The COUNTY and the CITY, with respect to their own procurement processes and the implementation and completion of all PROJECTS Activities shall, as applicable, comply with the terms and conditions of the General Assurances, attached hereto as Exhibit "D" and incorporated herein by reference.

34. Except as may otherwise be provided herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

35. The Parties hereto understand and acknowledge that the PROJECTS involve work by and coordination with third party owners of infrastructure over whom and over which they have no control or authority. Neither the COUNTY nor the CITY shall be excused from their respective funding obligations herein nor shall either be responsible or liable to the other because of any delay attributable to third party owners of public infrastructure, third party electric utility providers or other third party utility providers.

36. Either of the Parties hereto shall have the right to terminate this Agreement completely and without further obligation, damage, cost or penalty should any pre-existing condition, detected on or within any PROJECT right of way (as designated by the PE CONSULTANT's approved PROJECT plans) and prior to the initiation of or during any PROJECT construction activities, threaten or entail liability, assessment(s), penalties or risk and/or require the assumption by said Party of any current or future responsibility for the remediation and correction of the particular condition during the term hereof. In such instance, the party seeking to exercise its right to

terminate hereunder shall notify the other party within ten (10) business days or as soon as practicable after discovery of the condition at issue.

37. The parties hereto shall each be excused for the non-negligent or non-willful failure to perform or delay in the performance of any of their respective obligations hereunder, when such failure to perform or delay is occasioned by a cause or causes beyond such party's control, and the time for performance hereunder automatically shall be extended for a like interval. Such causes shall include without limitation: all labor disputes; strikes; lockouts; changes in the scope of improvements as approved by the parties hereto; inability to obtain or delay in the receipt of necessary materials or services beyond the reasonable control of either of the parties hereto or their respective consultants and/or contractors; unavoidable injury, casualty or damage to personnel, materials or equipment; fire; earthquake or other natural disasters; any delay attributable to third party owners of public infrastructure, third party electric utility providers or other third party utility providers; any dispute or legal action brought against either of the parties that interrupts construction or challenges title to or acquisition and ownership of the right of way or interests in real property required for construction of the PROJECTS; any pre-existing condition on or within the existing or required PROJECTS right of way that reasonably entails or threatens liability, assessment, penalties and/or remediation; riots; civil commotion; war; warlike operations; invasions; insurrections; rebellions; hostilities; military or usurped power; sabotage; governmental regulations or controls beyond the jurisdiction of the parties hereto; delay or failure to act by the State of Georgia or any other governmental entity not a party hereto, and their respective officials,

agencies, departments or commissions; Acts of God; and any other cause(s) beyond the respective reasonable control of either of the parties. The party seeking accommodation pursuant to this provision shall provide notice of any such event which results or will result in a delay or failure to perform hereunder within five (5) business days of the occurrence of the same.

38. Notwithstanding any provision to the contrary herein, the costs and expenditures of either party in connection with the PROJECTS shall be at the sole risk of each and without recourse against the other party should construction of the project, for whatever reason, not occur as contemplated herein.

39. The Parties acknowledge and represent that each party and its respective legal counsel have participated in the negotiation and preparation of this CFA. This CFA shall consequently be construed without regard to any legal presumption or law which requires the terms or provisions hereof to be construed against the author or scribe.

IN WITNESS WHEREOF, the COUNTY and the CITY have caused this CFA to be executed under seal by their duly authorized representatives.

COBB COUNTY, GEORGIA

By: _____
Michael H. Boyce, Chairman
Cobb County Board of Commissioners

Attest: _____
Pamela L. Mabry, County Clerk

Date: _____

(COUNTY SEAL)

Approved as to form:

County Attorney's Office

CITY OF POWDER SPRINGS, GEORGIA

By: _____
Al Thurman, Mayor
City of Powder Springs, Georgia

Attest: _____
Kelly Axt,
City Clerk

Date: _____

(CITY SEAL)

Approved as to form:

City Attorney

EXHIBIT “A”

X2312 Powder Springs Road and Flint Hill Road and Pine Grove Drive - Project includes intersection improvements to the intersections of Powder Springs Road and Flint Hill Road and Pine Grove Drive consisting of intersection realignment, signalizing, turn-lanes, and pedestrian facilities. Concept/Perliminary Engineering, Right of Way, and Constrution phases are included.

X2325 Powder Springs Road and Deercreek Drive – Project includes intersection improvement that consist of adding a right-turn lane on Powder Springs Road onto Deercreek Drive. Concept/Perliminary Engineering, Right of Way, and Constrution phases are included.

EXHIBIT "B"

Projects includes intersection improvements to the intersections of Powder Springs Road and Flint Hill Road, Pine Grove Drive and Deercreek Drive.

Project Contributions and Distribution X2312/X2325 - Cobb County/City of Powder Springs/GDOT (LMIG)

Project	Concept/Preliminary Engineering		Right of Way		Construction		Utility Relo	Testing	Inspection	Admin	
Project #	Funding	Managed By	Funding of Real Property	Acq. By:	Funding	Letting	Funding				
X2312 Powder Springs Rd @ Flint Hill Rd/Pine Grove Dr	52% COUNTY \$24,073.40 48% CITY \$22,221.60	Cobb County (Concept) Powder Springs (Preliminary)	52% COUNTY 48% CITY	Powder Springs	52% COUNTY 48% CITY	Powder Springs	Powder Springs	Powder Springs	Powder Springs	52% COUNTY \$2,367.40 48% CITY \$2,185.30	
			CITY Funding – Not to Exceed \$445,808.43 (To be released by the County)								
			COUNTY Funding – Not to Exceed \$476,292.48 (To be remitted to the City)					COUNTY CEI/Oversight \$15,000.00			
Project #	Funding	Managed By	Funding of Real Property	Acq. By:	Funding	Letting	Utility Relo	Testing	Inspection		
X2325 Powder Springs Rd @ Deercreek Dr	52% COUNTY \$2,139.54 48% CITY \$1,974.96	Cobb County	52% COUNTY \$4,375.28 48% CITY \$4,038.72	Cobb County	52% COUNTY \$20,551.90 48% CITY \$18,970.99	Cobb County	N/A	\$5,200.00 County \$4,800.00 City			

Note: Maximum allowable Cobb County participating amount for the projects shown above shall not exceed \$550,000.00. Percentages shown are estimated for budget and planning purposes only. GDOT/LMIG Funding in the amount of \$101,820.58 for Powder Springs Rd @ Deercreek Dr to be remitted to the County by the City.

	X2312	X2325	Total
Cobb County Funding	\$517,733.28	\$32,266.72	\$550,000.00
Powder Springs Funding	\$470,215.33	\$29,784.67	\$500,000.00
Total SPLOST Funding			\$1,050,000.00

EXHIBIT "C"

CITY OF POWDER SPRINGS QUITCLAIM DEED

STATE OF GEORGIA
COUNTY OF COBB

PROJECT:
COUNTY:
PARCEL:

THIS INDENTURE made this ____ day of _____, in the year 20__, by and between the CITY OF POWDER SPRINGS, GEORGIA, Georgia municipal corporation (herein after called "Grantor"), and COBB COUNTY, a political subdivision of the State of Georgia, (herein called "Grantee").

WITNESSETH:

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) in hand paid, to Grantor by Grantee at and before the execution, sealing and delivery hereof, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor has bargained, sold, remised, released, conveyed and forever quitclaimed, and by these presents does bargain, sell, remise, release, convey and forever quitclaim unto Grantee, and the heirs, legal representatives and assigns of Grantee, all rights, title and interest in and to the following property IN FEE SIMPLE:

(insert legal descriptions)

TO HAVE AND TO HOLD the said described premises together with all and singular the rights, privileges, easements and appurtenances thereto, so that neither Grantor nor any person claiming under Grantor shall at any time by any means or ways have, claim or demand any right, title or interest in or to said land or any of the rights, members, easements and appurtenances thereof.

IN WITNESS WHEREOF, the Grantor has caused this deed to be executed and sealed as of the day and year first above-written.

Signed, sealed and delivered this ____
day of _____ 20__ in the presence of:

THE CITY OF POWDER SPRINGS, GEORGIA

Unofficial Witness

BY: _____
Al Thurman, Mayor

Notary Public

ATTEST: _____
Kelly Axt, City Clerk

(NOTARY SEAL)

(S E A L)

EXHIBIT D
GENERAL ASSURANCES

I. INDEPENDENT CONTRACTOR STATUS AND COMPLIANCE WITH THE IMMIGRATION REFORM AND CONTROL ACT OF 1986

CONSULTANT acknowledges that it is functioning as an independent contractor in performing under the terms of this Agreement, and it is not acting as an employee of Cobb County. CONSULTANT acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986, located at 8 U.S.C. Section 1324, *et seq.*, and regulations relating thereto. Failure to comply with the above provisions of this Agreement shall be considered a material breach and shall be grounds for immediate termination of the Agreement.

II. GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT OF 2006

CONSULTANT acknowledges that it is responsible for complying with the provisions of the Georgia Security and Immigration Compliance Act of 2006 located at O.C.G.A. §13-10-90 *et seq.* and Georgia Department of Labor Rule 300-10-1-.02.

- A. That affidavits in the required form be executed from a CONSULTANT (and any subcontractors, regardless of tier) and notarized, showing compliance with the requirements of O.C.G.A. § 13-10-91 and that such be made part of the contract and/or subcontracts;
- B. That the CONSULTANT (and any subcontractors, regardless of tier) fully comply with the requirements for completing and submitting the “Immigration Compliance Certification” and that such certification be received by the COUNTY prior to the commencement of any work under this Agreement or subcontract;
- C. That the CONSULTANT (or any subcontractor, regardless of tier) notify the COUNTY within five (5) business days of entering into a contract or other agreement for hire with any subcontractor(s), regardless of tier;
- D. That the CONSULTANT be responsible for obtaining and providing to the COUNTY the “Subcontractor Affidavit & Agreement” and “Immigration Compliance Certification” required under these COUNTY'S “Procedures & Requirements” from each subcontractor, regardless of tier, employed or retained for work under this Agreement prior to the commencement of any work under the contract or any subcontract;
- E. That COUNTY reserves the right to dismiss, or require the dismissal of, any CONSULTANT or subcontractor for failing to provide the required affidavit or certification and/or for failure to comply with the statutory requirements of O.C.G.A. §13-10-91 and/or for providing false or misleading information upon the required affidavit(s) or certification(s);
- F. That CONSULTANT and/or subcontractor retaining any other subcontractor to perform services under the contract provide legal notice to any subcontractor of the requirements of Cobb COUNTY for immigration compliance and further provide notice that the COUNTY reserves the right to dismiss, or require the dismissal of, any CONSULTANT or subcontractor for failing to provide the required affidavit or certification and/or for failure to comply with the statutory requirements of O.C.G.A. § 13-10-91 and/or for providing false or misleading information upon the required affidavit(s) or certification(s);
- G. That failure to comply with any of the requirements and procedures of the COUNTY (i.e., failure to timely supply required affidavits or compliance certification documents; failure to utilize federal work authorization procedures; failure to permit or facilitate audits or reviews of records by COUNTY or State officials upon request; and/or failure to continue to meet any of the statutory or COUNTY obligations during the life of the Agreement) shall constitute a material breach of the Agreement and shall entitle the

COUNTY to dismiss CONSULTANT or to require the dismissal of any subcontractor or sub/subcontractor (irrespective of tier) for failing to fully comply with these requirements;

- H. That upon notice of a material breach of these provisions, the CONSULTANT (or subcontractor, regardless of tier) shall be entitled to cure the breach within ten (10) days and provide evidence of such cure. Should the breach not be cured, the COUNTY shall be entitled to all available remedies, including termination of the Agreement, the requirement that a subcontractor be dismissed from performing work under the contract, and any and all damages permissible by law.

NON-CONFLICT OF INTEREST

CERTIFICATION

I, _____, as the legal representative of _____
_____, do certify that we will not perform any type of engineering services for property owners adjacent or contiguous to any road project assigned by Cobb County, during the active life of such a project. Further, I additionally certify that if we already have an engineering agreement(s) with property owner(s) adjacent or contiguous to a road project assigned by Cobb County, we will either reject the **County** assignment, or cancel the property owner agreement already in effect if so directed by Cobb County Board of Commissioners. In no case will our firm utilize our knowledge of the ongoing Cobb County Road Improvement Program for professional gain during the active life of such program.

Name

Title

Date

Witness

Name

Title

Date

[CORPORATE SEAL]

**STATE OF GEORGIA
COUNTY OF COBB**

**COMPETITIVE PUBLIC WORK AFFIDAVIT
(O.C.G.A. §36-91-21)**

The undersigned, an officer of _____, hereby certifies in connection with the award of this Agreement with Cobb County that the undersigned did not by itself, its agents, employees, representatives, contractors, or otherwise, prevent or attempt to prevent competition in the procurement or selection for such Agreement by any means whatsoever. The undersigned further certifies that in the procurement of this work no attempt was made by the undersigned, its agents, employees, representatives, contractors, or otherwise to prevent or endeavor to prevent any person or entity from attempting to procure work by any means whatsoever, nor was any attempt made to procure or induce any other person or entity to withdraw a request for the said work.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and its seal this the _____ day of _____, 201__.

By: _____

Title: _____

Witness

Name

Title

Date

[CORPORATE SEAL]

**EVIDENCE OF COMPLIANCE
WITH
GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT**

The County and Contractor agree that compliance with the requirements of O.C.G.A. Sec. 13-10-91 and Rule 300-10-1-.02 of the Rules of the Georgia Department of Labor are conditions of this Agreement for the physical performance of services.

The Contractor represents that it employs:

- _____ 500 or more employees;
- _____ 100 or more employees; or
- _____ fewer than 100 employees

(Contractor must initial appropriate category).

The Contractor further agrees that its compliance with the requirements of O.C.G.A. Sec. 13-10-91 and DOL Rule 300-10-1-.02 is attested to on the executed Contractor Affidavit and Agreement attached hereto as EXHIBIT A.

If employing or contracting with any subcontractor(s) in connection with this Agreement, Contractor further agrees:

- (1) To secure from the subcontractor(s) such subcontractor(s)' indication of the employee-number category applicable to the subcontractor(s); and
- (2) To secure from the subcontractor(s) an affidavit attesting to the subcontractor's compliance with O.C.G.A. Sec. 13-10-91 and DOL Rule 300-10-1-.02; such affidavit being in the form attached hereto and referenced as EXHIBIT A-1; and
- (3) To submit such contractor affidavit(s) to the County when the subcontractor(s) is retained, but in any event, prior to the commencement of work by the subcontractor(s),
- (4) To submit to the County, such contractor and subcontractor affidavit(s) of "Immigration Compliance Certification," EXHIBIT A-2,

The failure of Contractor to comply with any of the requirements and procedures of the County (i.e. failure to timely supply required affidavits or compliance certification documents; failure to utilize federal work authorization procedures; failure to permit or facilitate audits or reviews of records by County or State officials upon request; and/or failure to continue to meet any of the statutory or County obligations) and to supply the affidavit of compliance at the time of execution of this Agreement and/or the failure of the Contractor to continue to satisfy the obligations of O.C.G.A. Sec. 13-10-91 and DOL Rule 300-10-1-.02 as set forth in this Agreement and during the term of the Agreement shall constitute a material breach of the Agreement and shall entitle the County to dismiss any general contractor or to require the dismissal of any subcontractor of sub/subcontractor (irrespective of tier) for failing to fully comply with these requirements and that upon notice of a material breach of these provisions, the Contractor shall be entitled to cure the breach within ten (10) days and provide evidence of such cure and in compliance with the terms of this Agreement and State law. Should the breach not be cured, the County shall be entitled to all available remedies, including termination of the Agreement, the requirement that a subcontractor be dismissed from performing work under the Agreement, and any and all damages permissible by law.

SEE AFFIDAVIT ON THE FOLLOWING PAGE

**CONTRACTOR AFFIDAVIT & AGREEMENT
(EXHIBIT A)**

This affidavit must be signed, notarized and submitted with any proposal requiring the performance of physical services. If the affidavit is not submitted with the proposal, proposal will be determined non-responsive and will be disqualified.

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is contracting with Cobb County, Georgia, has registered with, is authorized to use, and is participating in a federal work authorization program (an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA)). The undersigned contractor further attests that it will continue to use the federal Employment Eligibility Verification (EEV) work authorization program throughout the contract period.

The undersigned further agrees that should it employ or contract with any subcontractor(s) or should its subcontractor(s) employ other subcontractor(s) for the physical performance of services pursuant to the contract with Cobb County, Georgia, the contractor or subcontractor will:

- (1) Notify the County within five business days of entering into a contract or agreement for hire with any subcontractor(s);
- (2) Secure from any subcontractor(s) and/or their subcontractor(s) verification of compliance with O.C.G.A. § 13-10-91 on the attached Subcontractor Affidavit & Agreement (EXHIBIT A-1) prior to the commencement of any work under the contract/agreement;
- (3) Secure from any subcontractor(s) and/or their subcontractor(s) a completed Immigration Compliance Certification (EXHIBIT A-2) prior to the commencement of any work under the contract/agreement;
- (4) Provide the subcontractor(s) with legal notice that Cobb County, Georgia, reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the affidavit and/or for failure to comply with the requirements referenced in the affidavit;
- (5) Maintain records of such compliance and provide a copy of each such verification to Cobb County, Georgia, at the time the subcontractor(s) is retained to perform such services or upon any request from Cobb County, Georgia; and
- (6) Maintain such records for a period of five (5) years.

EEV (E-Verify) Program User ID Number

EEV Program Date of Authorization

BY: Authorized Officer or Agent
[Contractor Name]

Contractor Business Name

Printed Name

Date

SWORN AND SUBSCRIBED BEFORE ME
ON THIS THE ____ DAY OF _____, 201__

Notary Public

Commission Expires: _____

Effective 9/20/2013 Supersedes All Previous Versions)

**SUBCONTRACTOR AFFIDAVIT & AGREEMENT
(EXHIBIT A-1)**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of Cobb County, Georgia, has registered with, is authorized to use, and is participating in a federal work authorization program (an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA)). The undersigned subcontractor further attests that it will continue to use the federal Employment Eligibility Verification (EEV) work authorization program throughout the contract period.

The undersigned further agrees that should it employ or contract with any subcontractor(s) or should its subcontractor(s) employ other subcontractor(s) for the physical performance of services pursuant to the contract with Cobb County, Georgia, the undersigned subcontractor will:

- (1) Notify the County within five business days of entering into a contract or agreement for hire with any subcontractor(s);
- (2) Secure from any subcontractor(s) and/or their subcontractor(s) verification of compliance with O.C.G.A. § 13-10-91 on this Subcontractor Affidavit & Agreement (EXHIBIT A-1) form prior to the commencement of any work under the contract/agreement;
- (3) Secure from any subcontractor(s) and/or their subcontractor(s) a completed Immigration Compliance Certification (EXHIBIT A-2) prior to the commencement of any work under the contract/agreement;
- (4) Provide the subcontractor(s) with legal notice that Cobb County, Georgia, reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the affidavit and/or for failure to comply with the requirements referenced in the affidavit; and
- (5) Maintain records of such compliance and provide a copy of each such verification to Cobb County, Georgia, at the time the subcontractor(s) is retained to perform such services or upon any request from Cobb County, Georgia; and
- (6) Maintain such records for a period of five (5) years.

EEV (E-Verify) Program User ID Number

EEV Program Date of Authorization

BY: Authorized Officer or Agent
[Subcontractor Name]

Subcontractor Business Name

Printed Name

Date

SWORN AND SUBSCRIBED BEFORE ME
ON THIS THE ____ DAY OF _____, 201__

Notary Public

Commission Expires: _____

(Effective 9/20/2013 Supersedes All Previous Versions)

IMMIGRATION COMPLIANCE CERTIFICATION
(To be completed by Contractor and all Subcontractors)
(EXHIBIT A-2)

I certify to the Cobb County Board of Commissioners that the following employees will be assigned to:

(Project Name/Description)

_____	_____	_____
_____	_____	_____
_____	_____	_____

I further certify to Cobb County, Georgia the following:

- The E-Verify program was used to verify the employment eligibility of each of the above-listed employees hired after the effective date of our contract to use the program;
- We have not received a Final Nonconfirmation response from E-Verify for any of the employees listed.
- If we receive a Final Nonconfirmation response from E-Verify for any of the employees listed above, we will immediately terminate that employee's involvement with the project.
- I have confirmed that we have an I-9 on file for every employee listed above and that to the best of my knowledge all the I-9s are accurate.
- To the best of my knowledge and belief, all of the employees on the above list are legally authorized to work in the United States.
- If any other employee is assigned to this Cobb County project, a certification will be provided for said employee prior to the employee commencing work on the project.

To the best of my knowledge and belief, the above certification is true, accurate and complete.

Sworn to by:

Employer Name & Address:

Signature of Officer

Printed Name/Title

Date

SWORN AND SUBSCRIBED BEFORE ME
ON THIS THE ____ DAY OF _____, 201__

Notary Public

Commission Expires: _____

(Effective 9/20/2013 Supersedes All Previous Versions)