COUNTY DEPARTMENT AGENDA REQUEST

Department:	County Commissioners	Presenter(s):	Jack Krakeel
Meeting Date:	Thursday, December 9, 2010	Type of Request:	Old Business

Wording for the Agenda:

Continued discussion of a request from the City of Fayetteville related to the intersection of Hood Road and State Route 92 at State Route 85.

Background/History/Details:

The 2003 County-wide Transportation Plan includes a project that would make changes to the intersection of Hood Road and S.R. 92 (Forrest Avenue) at S.R. 85. This project was identified as a project to be funded with the "70% funds" from 2004 Transportation Special Purpose Local Option Sales Tax proceeds.

At the Board's November and December Workshops, City officials presented preliminary designs for the intersection to the County Commissioners.

The City and the County would partner to complete this project, using an Intergovernmental Agreement to define the roles and responsibilities of each entity.

What action are you seeking from the Board of Commissioners?

Hear final details about the project design. This is a project identified in the 2003 Transportation Plan for which a SPLOST referendum was approved in 2004. If the Board wishes to move forward with this project, the Chairman needs to be authorized to execute an intergovernmental agreement with the City.

If this item requires funding, please describe:

2004 SPLOST proceeds would fund this project.

Has this issue come before the Commissioners in the past?	Yes	If so, when?	Wednesday, December 1, 2010
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	No

STAFF USE ONLY

Approved by Finance	Yes	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement"), made and entered into as of the 9th day of December, 2010, by and between FAYETTE COUNTY, GEORGIA, ("County") and the CITY OF FAYETTEVILLE ("City") both political subdivisions of the State of Georgia.

W I T N E S S E T H:

WHEREAS, certain portions of State Route 92 and Hood Avenue lying within the municipal boundaries of the City have been identified by City officials as a part of a transportation improvement project known as the Hood Avenue Connector/ SR 92 Realignment Project("Project"); and

WHEREAS, the project is identified as Project R-12 in the County's 2003 Comprehensive Transportation Plan and is therefore an eligible project to be funded by SPLOST revenues; and

WHEREAS, the transportation improvements proposed by the City as defined by this Project are in the best interests of both the City and County; and

WHEARES, Article IX. Section III, Paragraph 1(a) of the Georgia Constitution authorizes, among other things, any county, municipality or other political subdivision of the State to contract, for a period not exceeding fifty years, with another county, municipality of political subdivisions, or with any other public agency, public corporation, or public authority for joint services for the provision of services, or for the provision or separate use of facilities or equipment, provided that such contract deals with activities, services or facilities which the contracting parties are authorized by law to undertake or to provide; and

WHEREAS, the County and the City desire to enter into an agreement for completion of a transportation improvement project known as the Hood Avenue Connector/ SR 92 Realignment Project, as more specifically set forth below.

NOW, THEREFORE, for and in consideration of the premises and undertakings as hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the City and the County DO HEREBY AGREE, as follows:

1. Incorporation of Recitals. The foregoing recitals are true and correct and are made a part of this Agreement as if fully set forth herein.

2. The City shall acquire and record in the Office of the Clerk of Superior Court of Fayette County all right-of-way and easement documents necessary to complete the Project. The City shall pay all costs associated with engineering and the preparation of construction drawings and

specifications required to enable the County to solicit bids for construction and construction management.

3. Upon receiving proof of free and clear right-of-way and any easements required for completion of the Project, any and all engineering reports or studies deemed necessary, and complete construction plans and specifications, the City shall solicit bids and award a contract for all construction and construction management services required to complete the Project; and shall cause the construction of the Project to be completed.

4. Compliance with Regulations; Maintenance Responsibilities. The City shall perform all work described herein in accordance with applicable county and state regulations. The City shall cooperate with

5. The County shall provide funding to the City from SPLOST 321 Fund revenues in an amount not to exceed $7,774,344 for the acquisition of right-of-way, construction materials and labor. The City will be responsible for all costs associated with design and project management. If the cost of the right-of-way, construction materials and labor is less than $7,774,344, the County will be entitled to any such savings.

6. The City shall make a good faith effort to seek additional funding through grants to assist in the cost of the project. Any additional funding obtained shall reduce the amount of the County's funding of the project except that the City shall be entitled to 20% of any cost savings achieved through grants.

7. The City agrees that it will complete the entire project that is the subject of this Agreement. Should the cost of the acquisition of right-of-way, construction materials and labor exceed $7,774,344, the City shall pay for any of these additional costs.

8. The County will pay its portion of the project costs as invoices are submitted during the project. The County will pay all acceptable invoices within 30 days of receipt of the invoice.

9. Miscellaneous.

a. Entire Agreement. This Agreement contains the entire agreement of the parties hereto and all understandings, representations, and agreements between them. Each party warrants to the other that no agent, officer, employee, attorney or other representative of either has made any representation or statement, nor are there any agreements or understandings between or among any of the parties' representatives, upon which any party relies, that are not expressed and set forth in writing herein.

b. Further Documents. The parties shall execute such other and further documents as may be deemed necessary by either party to fulfill the intent of the parties to this Agreement.

c. Time of Essence. Time is of the essence of each and every term, provision and covenant of this Agreement.

d. Governing Law. This Agreement is made and shall be construed under and in accordance with the laws of the State of Georgia.

e. Captions. All captions, headings, Sections, and subsection numbers and letters and other reference numbers or letters are solely for the purpose of facilitating reference to this Agreement and shall not supplement, limit, or otherwise vary in any respect the text of this Agreement.

f. Counterparts. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument.

g. Severability. This Agreement is intended to be preformed in accordance with, and only to the extent permitted by all applicable laws, ordinances, rules, and regulations. If any provision of the Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent be invalid or unenforceable, the remainder of the Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

h. Liability. Each party shall bear liability only for the actions of its own employees, agents and officials in carrying out the obligations set forth in this Agreement. The County bears all liability for any claims whatsoever that arise out of its construction activities.

i. No Waiver. No provision in the Agreement is intended to nor shall it be construed to in any way waive any immunities or protections provided to either the City or the County by the Constitution or laws of the State of Georgia.

j. Supervision of Employees. It is understood by the parties that no employees, officers, agents or officials or either party shall be under or subject to the direction or control of the other party, its officers, employees, agents or officials as to any of the services provided pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto, acting by and through their duly authorized officers, have caused this Agreement to be executed under seals as of the day and year first above written.

Attest:

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

_____ _____

Clerk/Deputy Clerk

Jack R. Smith, Chairman

Attest:

CITY OF FAYETTEVILLE

_____ _____

Clerk

Kenneth Steele, Mayor