



**COBB COUNTY  
DEPARTMENT OF TRANSPORTATION  
AMENDMENT TO  
COBB FRAMEWORK AGREEMENT**

**Project No. X2313  
AMENDMENT NO. 1**

WHEREAS, the City of Smyrna (“CITY”) and Cobb County, Georgia (“COUNTY”), hereinafter collectively referred to as the (“Parties”), entered into a Cobb Framework Agreement (CFA) on March 19, 2019, for services associated with the Nickajack Road Quiet Zone Railroad Crossing, Project No. X2313 (PROJECT); and

WHEREAS, the CITY and the COUNTY agreed in the CFA to pay, from their respective shares of the 2016 SPLOST TIP funds, for PROJECT costs for coordination and/or construction activities required by the approved PROJECT plans; and

WHEREAS, the Parties anticipated the total PROJECT costs to be Four Hundred Thirty-Five Thousand and no/100 Dollars (\$435,000.00) and agreed to split the costs of the project, with the CITY contributing 25% of the costs and the COUNTY contributing 75% of the costs; and

WHEREAS, the Parties agreed that the COUNTY would be the primary party to coordinate the construction phase of the PROJECT to be performed by Norfolk Southern Railway (“NSR”); and

WHEREAS, the Parties agreed that the estimate or projection of PROJECT costs did not constitute an absolute cap or bar as to the actual expenditures for the PROJECT Activities; and

WHEREAS, the Parties agreed that they would not be obligated to provide any additional PROJECT funding except as may be specifically set forth and conditioned by an amendment or addendum to the CFA; and

WHEREAS, the Parties agreed that any additional PROJECT costs beyond those identified in the CFA and agreed to in writing shall be apportioned in accordance with the percentages reflected in the CFA, with the CITY contributing 25% of the costs and the COUNTY contributing 75% of the costs; and

WHEREAS, the NSR provided an estimated PROJECT costs amount which exceeds the previously anticipated PROJECT costs, by One Hundred Thirty-Six Thousand Nine Hundred Sixty-Five dollars (\$136,965.00), for a total amount of Five Hundred Seventy-One Nine Hundred Sixty-five dollars (\$571,965.00) for Construction and Preliminary Engineering costs; and

WHEREAS, the attached **Exhibit A** demonstrates the updated costs apportioned to the PROJECT; and

WHEREAS, the Parties agree that the financial contributions for the PROJECT shall be specifically set forth by this amendment to the CFA; and

NOW THEREFORE, for and in consideration of Ten Dollars (\$10.00), and the mutual benefits and obligations flowing each to the other, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree to amend the CFA as follows:

1. Section 10 of the CFA shall be deleted and replaced as follows:

10. The CITY's share of the PROJECT costs is estimated to be One Hundred Forty-Five Thousand, Five Hundred Ninety-One and 25/100 Dollars (\$145,591.25). the COUNTY shall, pursuant to the Intergovernmental Agreement between the Parties for the use and distribution of 2016 SPLOST TIP Proceeds, bill the CITY for the CITY's respective share of the amount billed to the COUNTY by NS for PROJECT activities.

2. Section 11 of the CFA shall be deleted and replaced as follows:

11. Notwithstanding any provision or language to the contrary herein, the CITY understands, acknowledges and agrees that the estimated total maximum financial contribution of the COUNTY to the PROJECT is Four Hundred Thirty-Six Thousand, Seven Hundred Seventy-Three and 75/100 Dollars (\$436,773.75). The COUNTY will not be obligated to provide now or hereafter any additional PROJECT funding except as may be specifically set forth and conditioned by an amendment or addendum to this CFA. Likewise, the COUNTY understands, acknowledges and agrees that the estimated total maximum financial contribution of the CITY to the PROJECT is One Hundred Forty-Five Thousand, Five Hundred Ninety-One and 25/100 Dollars (\$145,591.25). The CITY will not be obligated to provide now or hereafter any additional PROJECT 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 PROJECT 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. The Parties acknowledge that the total PROJECT costs are based on actual cost estimates from the NSR, are subject to increase and do not include maintenance costs or fees.

3. Sections 11(a) and 11(b) shall be added to the CFA as follows:

11 (a). Both Parties acknowledge that should NSR elect or be required to construct any additional tracks or other structures or facilities, and shall find it necessary to disturb the PROJECT, or any portion of the highway located within the limits of said right of way in so doing, the Parties will, at their own cost and expense, upon notice in writing to do so served by NSR, make such changes in the Public Crossing, PROJECT Modifications, or in said highway, at the Parties' expense, in costs apportioned per the CFA.

11 (b). Both Parties acknowledge that the PROJECT, as installed, shall be maintained in operation by NSR, at the Parties' expense, for so long as the PROJECT is installed and in operation. The Parties understand, acknowledge, and agree that an Annual Maintenance Fee is required by NSR for said maintenance, and is not included in the estimated total maximum financial contribution amount. This Annual Maintenance Fee shall be paid by both Parties in costs apportioned per the CFA. An Intergovernmental Agreement between the CITY and COUNTY shall be executed concurrently with this Agreement addressing said Annual Maintenance Fee requirements.

4. Sections 15(a) and 15(b) shall be added to the CFA as follows:

15 (a). Both Parties shall require that any contractor engaged by them agree, in writing, to indemnify NSR for injury to or death of any person, or loss of or damage to property arising from any work performed by such a contractor on the PROJECT, or at the Public Crossing, and shall conform to the requirements specified in Appendix ‘A’ (“Special Provisions – C&S), a copy of which is attached hereto and incorporated by reference herein.

15 (b). The CITY and/or the COUNTY shall ensure that the CITY and/or the COUNTY’s contractors shall procure and maintain in force insurance protection which shall conform to the requirements specified in Section (a)(ii) of Appendix ‘A’ while either Party performs installation or maintenance of equipment at the crossing for which they have sole responsibilities including, but not limited to, vehicle detection systems. In addition, the CITY and/or the COUNTY shall provide evidence of insurance pool participation naming NS as an additional insured.

This Agreement in no way modifies or changes the original Agreement of which it becomes a part, except as specifically stated herein.

This \_\_\_\_\_ day of \_\_\_\_\_, 2020

RECOMMEND FOR APPROVAL:

**CITY OF SMYRNA**

**COBB COUNTY, GEORGIA**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: Derek Norton

Printed Name: Michael H. Boyce

Title: Mayor, City of Smyrna, Georgia

Title: Chairman, Board of Commissioners

Date \_\_\_\_\_

Date \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Attest: \_\_\_\_\_  
County Clerk

[ATTACH CITY SEAL]

[AFFIX COUNTY SEAL]

APPROVED TO FORM BY:

\_\_\_\_\_  
County Attorney’s Office

**EXHIBIT A – QUIET ZONE COSTS APPORTIONED**