



TOWN *of* SUMMERVILLE, SC

Special Called Town Council Meeting

Council Chambers – 200 South Main Street, Summerville, SC 29483

Friday, May 19, 2023 – 2:00pm

AGENDA

1. Call to Order
2. Consideration of proposed changes to the Intergovernmental Agreement with Dorchester County for the Maple Street Extension project
3. Adjourn

****Amended on May 18, 2023 at 1:00pm to change “Discussion” to “Consideration” on item 2.***

**Cooperative Intergovernmental Agreement between
Town of Summerville and
Dorchester County, South Carolina**

THIS AGREEMENT is made this 21 day of February, 2023, by and between the Town of Summerville and Dorchester County, South Carolina.

WITNESSETH THAT:

WHEREAS, The Town of Summerville and Dorchester County desire to work together in the planning and construction of the Maple Street Extension project (defined below) selected for funding by the Dorchester County Sales Tax Referendum and the Town of Summerville Mid-Town Tax Increment Financing (TIF) district.

WHEREAS, the Town of Summerville is a body politic with all the rights and privileges of such including the power to contract as necessary and incidental powers to carry out the Town's functions covered under this Agreement; and,

WHEREAS, Dorchester County is a body politic with all the rights and privileges of such including the power to contract as necessary and incidental powers to carry out the County's functions covered under this Agreement; and,

WHEREAS, The Town of Summerville and Dorchester County agree to proportionately fund the Project as described hereinafter, and,

NOW THEREFORE, in consideration of the several promises to be faithfully performed by the parties hereto as set forth herein, The Town of Summerville and Dorchester County do hereby agree as follows:

I. GENERAL RECITALS:

A. Description of Work

Maple Street Extension: This work includes the widening of Maple Street from approximately 1,300 feet east of Shamrock Drive from two lanes to four lanes to US-78. The intersection at US-78 will be improved with turn lanes at all approaches. Maple Street will be widened from two lanes to three lanes from US-78 to West Richardson Avenue with the installation of a new traffic signal at West Richardson Avenue. The project will be on a new alignment from West Richardson to Parsons Road transitioning from three lanes to two lanes at the Parsons Road tie-in.

B. Scope of Work

Town of Summerville shall carry out all the specific activities necessary to implement and construct the Project, which include planning, design, right of

way acquisition, utility coordination, construction engineering and inspection (CE&I), construction and other associated coordination and contract administration activities.

II. COMMUNICATIONS:

The Town of Summerville and Dorchester County agree that regular communication about this project is essential to the effective execution of the Project. The parties further agree that each party will strive to communicate at both the management level and staff level.

III. OBLIGATIONS OF TOWN OF SUMMERVILLE:

A. The Town of Summerville shall provide or cause to be provided all services necessary for the execution of activities for the planning and execution of the Project as described in Section B, Scope of Work section, including planning, design, right of way acquisition, utility coordination, construction engineering and inspection (CE&I), construction and other associated coordination and contract administration activities.

B. The cost of all elements of the Project, including but not limited to, construction and CE&I services, will be funded by Town of Summerville's Mid-Town Tax Increment Financing District (TIF) funds up to \$11,000,000.00. After Summerville TIF funds have been exhausted, the remaining cost of all elements including but not limited to construction and CE&I services, of the Project will be funded by Dorchester County Sales Tax Referendum Funds. Total construction contract costs are \$20,948,175.00 and CE&I costs are \$1,152,665.95. The total project cost is \$22,100,841.00. Town of Summerville will submit invoices and supporting documentation to Dorchester County staff for reimbursement up to a maximum of \$11,100,841.00 for construction and CE&I services on a monthly basis until reimbursement maximum is met or upon project completion, whichever occurs first.

C. Any change orders or other additional costs for this project that result in an increase over the contract price shall be the sole responsibility of the Town of Summerville.

D. Town of Summerville will provide Dorchester County copies of the monthly reports on Project progress and will invite representatives of Dorchester County to progress meetings on the Project.

IV. OBLIGATIONS OF DORCHESTER COUNTY:

A. Dorchester County shall reimburse the Town of Summerville as provided in Section III. B. for services as defined in Section III herein within 30 days of receiving requests for payment and invoices.

V. MISCELLANEOUS GENERAL PROVISIONS:

A. Disputes

Any dispute or claim arising out of or related to this Agreement shall be resolved by meetings between the Town of Summerville Administrator and the Dorchester County Administrator. Should these individuals not be able to settle the dispute, an ad hoc board, the Dispute Resolution Board, will be selected pursuant to the procedures as follows: The Dispute Resolution Board will consist of two members of the Town of Summerville Council and two members of Dorchester County Council. These four members shall choose a fifth member neither employed or elected by Town of Summerville or Dorchester County. This fifth member shall be a mediator certified in the State of South Carolina. The cost for the mediator shall be shared equally between the Town of Summerville and Dorchester County. The board shall be empaneled for the entire duration of this Agreement and shall hear all disputes between Town of Summerville and Dorchester County relating to this Agreement that cannot be resolved by the two officials named above. Exhaustion of this Dispute Resolution Process is a condition precedent to the filing of a lawsuit. Any lawsuit filed by Town of Summerville against Dorchester County out of or relating to this Agreement shall be filed for non-jury proceedings in Dorchester County, South Carolina. Any lawsuit filed by Dorchester County against the Town of Summerville out of or relating to this Agreement shall also be filed for non-jury proceedings in Dorchester County, South Carolina.

B. Successors/Assigns

The Town of Summerville and Dorchester County each binds itself, its successors, executors, administrators, and assigns to the other party with respect to this agreement, and also agrees that neither party shall assign, sublet, or transfer its interest in the Agreement without the written consent of the other. Any necessary change orders shall be subject to paragraph V(D) herein below.

C. Enforceability

All of the terms, provisions and conditions of this Agreement shall be binding upon and enforceable by the parties, their respective elected officials, legal representatives, agents and employees and their respective successors.

D. Amendment

This Agreement may be amended or modified only by a written document, which has been signed by the parties hereto, or by their duly authorized officials. Town of Summerville, or its authorized agent, shall agree to hold consultations with Dorchester County as may be necessary with regard to the execution of

supplements to this Agreement during the course of the Projects for the purpose of resolving any items that may have been unintentionally omitted from this Agreement or arise from unforeseen events or conditions. Such supplemental agreements shall be subject to the approval and proper execution of the parties hereto. No modifications or amendments to this Agreement shall be effective or binding upon either party unless both parties agree in writing to any such changes.

E. Waiver

No waiver of a breach of any of the covenants, promises or provisions contained in this Agreement shall be construed as a waiver of any succeeding breach of the same covenant or promise or any other covenant or promise thereof. In no event shall any failure by either party hereto to fully enforce any provision of this Agreement be construed as a waiver by such party of its right to subsequently enforce, assert or rely upon such provision.

F. Governing Law

This Agreement shall be governed by the laws of the State of South Carolina.

G. Severability

In the event that any part or provision of this Agreement shall be determined to be invalid and/or unenforceable, the remaining parts and provisions which can be separated from the invalid and/or unenforceable provision or provisions shall continue in full force and effect.

H. Captions

The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

I. Notices

All notices pertaining to this Agreement shall be in writing and addressed as set forth below, and shall be deemed properly delivered, given or served when (i) personally delivered, or (ii) sent by overnight courier, or (iii) three (3) days have elapsed following the date mailed by certified or registered mail, postage prepaid.

Notices to Town of Summerville:

Lisa Wallace
Town Administrator
200 South Main Street
Summerville, South Carolina 29483

Notices to Dorchester County:

Jason L. Ward
County Administrator
201 Johnston Street
St. George, South Carolina 29477

J. Further Documents

Each party will, whenever and as often as it shall be requested by another party, promptly and within a reasonable time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered such further instruments or documents as may be necessary to carry out the intent and purpose of this Agreement.

K. No Third-party Beneficiaries

No rights in any Third-party are created by this Agreement, and no person not a party to this Agreement may rely on any aspect of this Agreement, notwithstanding any representation, written or oral, to the contrary, made by any person or entity. The parties hereto affirmatively represent that this Agreement is made solely for the benefit of the parties hereto and their respective successors and assigns and not for the benefit of any Third-party who is not a signature party hereto. No party other than the signature parties and their respective successors and assigns hereto shall have any enforceable rights hereunder, or have any right to the enforcement hereof, or any claim for damages as a result of any alleged breach hereof.

L. Multiple Counterparts

This Agreement is executed in multiple counterparts, each of which shall be deemed an original but all of which collectively shall constitute one and the same Agreement.

M. Prior Agreements, Entire Agreement

All obligations of the parties, each to the other, relating to the subject matter of this Agreement, contained in any other document or agreement or based on any other communication prior to the execution of this Agreement have been satisfied

or are superseded by this Agreement. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof.

This Agreement, with the Appendices hereto, sets forth the full and complete understanding of the parties as of the date first above stated, and it supersedes any and all agreements and representations made or dated prior thereto.

The parties make no representations, covenants, warranties or guarantees, express or implied, other than those expressly set forth herein. The parties' rights, liabilities and responsibilities with respect to the services provided for in this Agreement shall be exclusively those expressly set forth in this Agreement.

O. Reviews and Approvals

Any and all reviews and approvals required of the parties herein shall not be unreasonably denied, delayed or withheld.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representative the day and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

TOWN OF SUMMERVILLE

Attest:



Russell W. Cornette
Director of Public Works

By:



Lisa Wallace
Town Administrator

DORCHESTER COUNTY

Attest:



Jason Carraher
Director of Public Works

By:



Jason L. Ward
County Administrator