

ORIGINAL
STAMPED IN RED

RESOLUTION NO.: R-2022-094

Authorizing the City Manager to execute an Intergovernmental Agreement Relating to a Regional Gateways Project between Richland County, Lexington County, City of Columbia and Central Midlands Council of Governments

BE IT RESOLVED by the Mayor and City Council this 6th day of December, 2022, that the City Manager is authorized to execute the attached Intergovernmental Agreement for a Regional Gateways Project between Richland County, Lexington County, City of Columbia and Central Midlands Council of Governments, or on a form approved by the City Attorney, for the terms and conditions therein contained.

Requested by:

Assistant City Manager Shealy

Approved by:

Cheresa B. Wilson
City Manager

Approved as to form:

[Signature]
City Attorney

Introduced: 12/6/2022
Final Reading: 12/6/2022

[Signature]
Mayor

ATTEST:

Tika M. Hammond
City Clerk

**INTERGOVERNMENTAL AGREEMENT
FOR
REGIONAL GATEWAYS PROJECT**

The AGREEMENT, made the May day of 30, 2023, by and among the following units of local government: Richland County, Lexington County, City of Columbia, and Central Midlands Council of Governments.

WHEREAS, the parties to the Agreement have the authority pursuant to the South Carolina Home Rule Act, to enter into intergovernmental agreements for the purpose of providing any service or performing any function which they can perform individually;

WHEREAS, the parties to this Agreement desire to cooperate in developing and carrying out the Regional Gateways Project, hereinafter referred to as the PROJECT, the purpose of which is to beautify key regional gateways with unified landscaping and signage, within a ten-mile radius of the South Carolina State House;

WHEREAS, the local government parties to this Agreement desire to engage Central Midlands Council of Governments (CMCOG) to assist with managing the project;

WHEREAS, the parties to this Agreement desire to clearly define each parties' roles, responsibilities, and expectations necessary to successfully implement the project;

NOW, THEREFORE, in consideration of the representations set forth herein, the parties hereby mutually agree as follows:

- 1. Project Definition.** The purpose of the PROJECT is to beautify key regional gateways with unified landscaping and signage in highly trafficked areas within a ten-mile radius of the South Carolina Statehouse. The PROJECT will consist of both construction and ongoing maintenance of the selected project sites.

- a. **Project Sites.** The PROJECT will include the construction and ongoing maintenance of the initial eight (8) regional gateway sites, listed in no particular order: Airport Boulevard Gateway: One-mile stretch beginning at I-26 & S.C. 302 continuing to the Airport Expressway; Fort Jackson Gateway: I-77 & Forest Drive; Lexington Gateway: I-20 & U.S. 1; Harbison Gateway: I-26 & Harbison Boulevard; Downtown Connector Gateway: I-20 & S.C. 277; I-20 & I-26; I-20 & I-77; I-77 & I-26.
- b. **Project Implementation.** The Airport Boulevard Gateway will be the first site to be beautified. The Fort Jackson Gateway will be the second site to be beautified. The order of implementation of the remaining sites will be determined by funding and a project advisory committee as defined in Section 2(a). The order of implementation of the remaining projects shall not otherwise be explicitly defined by this Agreement.
- c. **Funding Obligation.** Each site must be fully funded for both construction and ongoing maintenance for no less than the term required by the SCDOT encroachment permit, before it will be bid for construction. The local government where a specific project is located will be responsible for executing the required SCDOT encroachment permit for that project. All parties duly understand, in the event this agreement is terminated, per SCDOT policy all ongoing maintenance responsibilities for completed projects will revert to the jurisdiction holding the associated encroachment permit.
- d. **Additional Sites.** After the eight (8) sites listed above are implemented and duly funded for both beautification and ongoing maintenance, the parties to this agreement may choose to construct and maintain additional sites by amending this Agreement with the written consent of all parties.
- e. **Additional Partners.** The City of Cayce, the City of West Columbia, the City of Forest Acres, the Town of Springdale, the Town of Irmo, and the Town of Lexington, are considered by the parties of this agreement to be additional partners for the PROJECT, and all have committed funding for ongoing maintenance of the PROJECT as outlined in Section 4(b), by entering into a separate Memorandum of Understanding (MOU) with CMCOG. At any time, the parties to this agreement may choose to invite additional local government partners to participate in the PROJECT by entering into this agreement or entering into a separate MOU

with CMCOG, so long as they accept all the terms and conditions, including the required cost share commitment for ongoing maintenance.

2. Advisory Committees - Duties and Obligations. Each unit of local government party to this Agreement shall, in coordination and collaboration with CMCOG, assign representatives to each of the following advisory committees to assist in the performance of the identified responsibilities. Each unit of local government agrees to designate and ensure the participation of such representatives for no less than the term of this agreement. If a designated representative is no longer able or willing to participate, the unit of local government will promptly designate a new representative. Each unit of local government may also designate an alternate for each primary designee, who may serve on the relevant committee with full voting rights in their absence.

a. **Project Steering Advisory Committee.** Each unit of local government party to this agreement will designate one elected official and/or administration staff to actively serve on a Project Steering Advisory Committee (PSAC) that will be responsible for overseeing the general direction and scope of the PROJECT. The PSAC may include other stakeholders not party to this agreement, to include one representative from the Midlands Business Leadership Group (MBLG).

- The PSAC will be responsible for ensuring adequate funding for construction and maintenance, coordinating stakeholder outreach, determining implementation priorities, and other services as needed.
- The PSAC shall delegate all procurement actions to CMCOG.
- The PSAC shall select the order of implementation for the projects and designate when the implementation process will begin.
- The PSAC shall not participate in the procurement process.
- The PSAC will authorize CMCOG to negotiate a contract with the selected contractor for each project.
- The PSAC will meet no less than bi-annually to receive updates on the progress of the overall program.

b. **Procurement Advisory Committee.** Each unit of local government party to this agreement will designate one procurement staff member, or other staff member with knowledge and expertise of local government procurement practices, to actively serve on a Procurement

Advisory Committee (PAC) that will be responsible for assisting CMCOG with the implementation of the procurement process. Per this IGA, CMCOG will have the responsibility of procuring the projects identified in this agreement.

- The PAC will assist CMCOG in developing standardized procurement document templates and customizing these templates to address the unique requirements of each project.
- The PAC will assist CMCOG in the solicitation for each project. Each solicitation will be posted at a minimum in the South Carolina Business Opportunities. Other solicitation sources will be used as determined by the committee and CMCOG.
- The PAC will assist CMCOG in receiving and reviewing bid proposals/packets to determine responsiveness to the bid packet/request for qualifications and/or proposals.
- The PAC will assist CMCOG in releasing the intent to award notification to successful and unsuccessful proposers.
- The PAC will assist CMCOG in managing the appeals process and procedures.
- The PAC will assist CMCOG in the development of contract materials to negotiate and execute a contract with the selected consultant.
- Other duties may be assigned to the PAC as determined and requested by CMCOG.

c. **Technical Advisory Committee.** Each unit of local government party to this agreement will designate one staff member to actively serve on a Technical Advisory Committee (TAC) that will be responsible for assisting CMCOG with the implementation of the procurement, project selection, and technical assessment process for each project. The designated staff member must have demonstrated technical expertise in one or more of the following areas: civil engineering, public works, landscape design, and/or construction management. Per this IGA, CMCOG will have the responsibility for administrative management for the projects identified in this agreement.

- The TAC will assist CMCOG in the development of technical specifications, bid forms, and selection criteria that will be included in solicitation documents.
- The TAC will assist CMCOG in the development of an independent cost estimate (cost/price analysis) for each project. If the TAC is unable to perform this service, then CMCOG will include these services as part of their procurement responsibilities.
- The TAC will receive bid documents from CMCOG that have been reviewed and approved by the PAC.

- The TAC will assist CMCOG in review of the technical specifications of the bid proposals for accuracy.
 - The TAC will assist CMCOG with the evaluation and scoring of the bid proposals as part of the procurement process.
 - The TAC will assist CMCOG with participating in pre-bid and pre-construction conferences.
 - The TAC will assist CMCOG in reviewing and approving design and construction plans, as well as developing construction bid specifications.
 - For each project, the TAC shall designate a site manager for that specific project. The site manager will serve as the primary point of contact and technical liaison to CMCOG.
 - Other duties may be assigned to the TAC as determined and requested by CMCOG.
- d. **Contract Management Advisory Committee.** Each unit of local government party to this agreement will designate one staff member to actively serve on a Contract Management Advisory Committee (CMAC) that will be responsible for assisting CMCOG with the day-to-day management of the contractor and implementation of the overall contract. Once a contract has been executed with the selected contractor, the TAC shall service in the capacity as the Contract Management Advisory Committee. Per this IGA, CMCOG will have the responsibility for managing the implementation of the projects identified in this agreement.
- The CMAC will assist CMCOG in managing the day-to-day activities associated with project implementation.
 - For each project, the CMAC shall designate a site manager for that specific project. The site manager will serve as the primary point of contact and technical liaison to CMCOG.
 - The site manager will be empowered to make day-to-day decisions, in coordination with CMCOG, to ensure continuous project implementation.
 - The site manager will receive and approve no cost or minor change order requests in coordination with CMCOG. Major change order requests shall be approved by the CMAC and/or the PSAC depending on the nature of the request. The CMAC, in consultation with the PSAC, will establish a threshold for determining what constitutes a major or minor change order.
 - The site manager will review and approve contractor invoices before payment will be authorized and released for payment by CMCOG.

- The site manager will assist CMCOG with providing updates to the PSAC.
- The CMAC will assist CMCOG in assessing the maintenance needs (report) for each project on an annual basis.
- The CMAC will assist CMCOG to ensure that maintenance and upkeep are completed at a satisfactory level.
- The CMAC and CMCOG will coordinate with SCDOT to ensure all construction and maintenance activities are in compliance with SCDOT standards.
- Other duties may be assigned to the CMAC as determined and requested by CMCOG.

3. **Central Midlands Council of Governments Duties and Obligations.** Central Midlands Council of Governments (CMCOG) shall act as the project manager for coordinating the PROJECT on behalf of the other parties to this agreement. As project manager, CMCOG shall be responsible for the following:

a. Procurement

- CMCOG will manage the procurement of construction and maintenance services for the PROJECT.
- CMCOG will determine the procurement process, which is intended to be uniform for each project included in the PROJECT.
- CMCOG procurement responsibilities will include developing and soliciting RFQs/RFPs, facilitating advisory committee meetings for the purpose of developing bid specifications, and evaluating proposals, and coordinating the contract award and appeals process.
- If procurement services for independent cost are performed, vendor and/or contractors who provide independent cost estimates will be unable to participate in the procurement of construction and/or maintenance services.
- CMCOG procurement actions will be consistent with the CMCOG procurement policy and may accommodate specific provisions of applicable local government procurement policies when mutually agreed upon by the other parties to the agreement. CMCOG shall reserve the right to reject such provisions if they conflict with CMCOG's procurement policy or other directives that may impact the development of the project.
- CMCOG will develop all RFPs with consistent selection criteria.

- CMCOG will ensure a competitive procurement process to the maximum extent possible. All parties to the Agreement will adhere to CMCOG's procurement process and will support CMCOG in ensuring maximum competition.
 - Projects may be procured using a "design/build" method of project delivery.
 - Other duties may be assigned as determined and requested by CMCOG.
- b. Contract Administration.** CMCOG will assist and facilitate the contract administration for all construction and maintenance contracts executed for the PROJECT.
- Construction and maintenance activities will be managed in coordination and collaboration with the PSAC, PAC, TAC, and CMAC.
 - CMCOG will serve as the administrative agent for each unit of local government party to this agreement for construction services.
 - CMCOG will serve as the administrative agent for each unit of local government party to this agreement for maintenance services.
 - Local units of governments directly impacted by the performing project shall execute the agreement with the selected contractor and designate CMCOG as their administrative agent to perform administrative duties.
- c. Financial Management.** CMCOG will provide financial management services for the PROJECT to include receiving and holding donated funds, paying invoices, providing financial reports, and providing other general accounting services as needed.
- Funds for construction and maintenance will be accounted for separately.
 - Donated construction funds will be held in a capital account that will remain in effect until such time as all construction activities are complete and all funds have been expended.
 - Annual maintenance funds will be held in a separate account that will only be used to pay for ongoing maintenance costs, including repairs and replacements.
 - Private donations and local government funds for this project may be accepted and held by the Central Midlands Development Corporation (CMDC).

4. Project Funding/Cost Share. Each unit of local government party to this agreement will provide funding to support the construction and ongoing maintenance and administration of the PROJECT based on the following cost allocations:

a. Construction. Funding for construction will be provided on a site by site basis through a combination of local government contributions and private donations. Local government funding contributions for construction projects may be earmarked or dedicated for a specific project by the entity making the financial contribution. Each site must be fully funded for both construction and ongoing maintenance for no less than the term required by the SCDOT encroachment permit, before it will be bid for construction.

b. Maintenance. Funding for ongoing maintenance will be provided through annual contributions from each unit of local government party to this agreement and each unit of local government party to a separate MOU with CMCOG as described in Section 1(e). Funding commitments will be based on the following requirements:

- The cost share for each participating unit of local government will be based upon their percentage share of the IGA area's total population.
- Each county government's share will be based on their full county population less the population of any participating municipalities.
- The total annual maintenance cost for each project, from which the pro rata shares will be calculated, will include a repair and replacement contingency fee reflecting 10% of the original construction contract price.
- CMCOG will invoice local governments for their annual contribution after the start of each fiscal year.
- Maintenance costs will be reassessed on an annual basis.
- If a local government declines to participate, then the pro rata share for the remaining jurisdictions will be re-assessed.

c. Administration. Funding for project administration by CMCOG will be included in the construction and maintenance budgets for each site project and will be paid for from the construction and maintenance allocations described above. CMCOG will be paid a lump sum construction administration fee not to exceed 10% of the total cost of construction for the first project, the Airport Blvd./Hwy 302 Gateway. CMCOG will use these initial

administrative fees to cover the costs of CMCOG services across multiple projects. CMCOG will provide regular updates to the PSAC on the use of these funds. Additional administrative fees shall be negotiated with the PSAC as needed after the second, fourth, and sixth projects. CMCOG will use this administrative fee to address the project administration and services outlined in the Agreement, to include procurement management and administration, contract administration, fiscal sponsorship/financial management, and project coordination and support. CMCOG reserves the right to use these funds to secure any deficiencies in addressing the needs of the overall PROJECT.

5. **Pursuit of Federal Funds.** If the PSAC decides to pursue federal or state funding for any phase of the PROJECT, the parties agree to work with CMCOG to evaluate and ensure eligibility and compliance with all applicable laws and regulations.
6. **Non-Appropriation.** If the parties to this agreement fail to appropriate or authorize the expenditure of sufficient funds to provide the continuation of this contract or if a lawful order issued in, or for any fiscal year during the term of the contract, reduce the funds appropriated or authorized in such amounts as to preclude making the payments set out therein, the contract shall terminate on the date said funds are no longer available without any termination charges or other liability incurring to the parties.
7. **Term and Termination.** This Agreement shall commence upon execution by all parties and shall remain in full force and effect until such time as the PSAC agrees to present a request for termination to each of their respective councils, and each respective council approves such termination. This agreement shall not be terminated as long as a contract, grant, or other mutual obligation is in effect, in which case the Agreement will remain in full force until all such mutual obligations are satisfied. Upon such termination, all maintenance responsibilities for completed projects will revert to the jurisdiction holding the associated encroachment permit.
8. **Amendments.** This Agreement may be amended at any time with the written consent of all parties.
9. **Insurance.** Each party shall maintain insurance, whether commercial or self-funded, in amounts sufficient to fulfill its obligations and potential liabilities under this Agreement, but in no event shall such amounts be less than the limits of claims arising under the South Carolina Tort Claims Act.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first above written.

FOR RICHLAND COUNTY

By: _____
(Signature)

Position: _____
(Chief Elected or Administrative official)

FOR LEXINGTON COUNTY

By: _____
(Signature)

Position: _____
(Chief Elected or Administrative official)

FOR CITY OF COLUMBIA

By: Chessa B. Wilson
(Signature)

APPROVED AS TO FORM
Chessa B. Wilson
Legal Department City of Columbia, SC
10/20/2022

Position: City Manager
(Chief Elected or Administrative official)

FOR CENTRAL MIDLANDS COUNCIL OF GOVERNMENTS

By: _____
(Signature)

Position: _____
(Chief Elected or Administrative official)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first above written.

FOR RICHLAND COUNTY

By: Leonardo Brown
(Signature)

County Administrator
Position: (Chief Elected or Administrative official)

FOR LEXINGTON COUNTY

By: [Signature]
(Signature)

Chairman
Position: (Chief Elected or Administrative official)

FOR CITY OF COLUMBIA

By: Cheresa B. Wilson
(Signature)

City Manager
Position: (Chief Elected or Administrative official)

FOR CENTRAL MIDLANDS COUNCIL OF GOVERNMENTS

By: Rebecca Vane
(Signature)

Interim Executive Director
Position: (Chief Elected or Administrative official)