COUNTY AGENDA REQUEST

Department:	Public Works - SPLOST	Presenter(s):	Carlos Christian
Meeting Date:	Thursday, October 27, 2011	Type of Request:	Consent

Wording for the Agenda:

Approval of staff's recommendation that the County enter into an agreement with Georgia Transmission Corporation which will allow the County to work within the power easements owned by said company during construction of the West Fayetteville Bypass Project, Phase II; and authorization for the Chairman to execute said Agreement.

Background/History/Details:

During the construction of Phase II of the West Fayetteville Bypass construction will cross easements owned by the Power Company. This agreement gives the County the right to work within that easement.

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation that the County enter into an agreement with Georgia Transmission Corporation which will allow the County to work within the power easements owned by said company during construction of the West Fayetteville Bypass Project, Phase II; and authorization for the Chairman to execute said Agreement.

If this item requires funding, please describe:

Funds will come from the SPLOST Project funds for the West Fayetteville Bypass Project, Phase II.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?	No	Backup Provided with Request?	Yes

STAFF USE ONLY

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

Staff Notes:

STANDARD UTILITY AGREEMENT
EASEMENT LIMITED AGREEMENT

PROJECT No.: West Fayetteville Bypass-Phase II-Sec. 2,
Fayette County Public Works

THIS AGREEMENT, made this _____, by and between Fayette County, hereinafter called the COUNTY, first party, and the Georgia Transmission Corporation (an Electrical Membership Corporation), hereinafter called the COMPANY, second party.

W I T N E S S E T H:

WHEREAS, the COUNTY proposes under the above numbered project to contruct the West Fayetteville Bypass-Phase II-Sec. 2, Fayette County, Georgia; and

WHEREAS, the COMPANY has existing electrical transmission facilities located upon or over the project from station 124+54 to station 125+70 left and station 124+80 to station 125+84 right along the construction centerline with portions of the facilities located upon a right-of-way or easement with rights to install, operate and maintain such facilities thereon; and

WHEREAS, the location of said right-of-way or easement is shown on the highway plans at said station limits for this project, a copy of said plans in pertinent part being attached hereto. The existing facilities presently contemplated are not in conflict with the highway construction; however, if they are later found to be in conflict, they will be relocated or adjusted, if necessary, to accommodate the proposed highway construction; and

WHEREAS, the COUNTY and the COMPANY desire to enter into an agreement relative to the encroachment of the highway project on the rights-of-way or easement upon which the facilities are located.

NOW, THEREFORE, in consideration of an amount Zero & No/100 Dollars ($0.00) in hand paid and other valuable considerations received by the COMPANY and further in consideration of the premises and the mutual covenants of the parties hereinafter set forth, it is hereby agreed:

1. It is specifically understood that the project number shown above is for the COUNTY 'S identification purposes only and may be subject to change by the COUNTY. In the event it becomes necessary for the COUNTY to assign a different project number, the COUNTY will notify the COMPANY of the new project designation. Such change in project designation shall not affect any of the terms of this Agreement.

2. The COMPANY relinquishes and grants to the COUNTY all its existing property interests at the locations shown on the attached highway plans and grants to the COUNTY the right to construct, operate and maintain the above referenced highway across the COMPANY'S right-of-way or easement under the terms and conditions as herein stated.

3. The COUNTY agrees to obtain all necessary rights from the owners of the lands crossed by the COMPANY'S rights-of-way or easement located within the limits of the required right-of-way acquired by the COUNTY.

4. The COMPANY agrees to relocate or adjust, existing COMPANY facilities if later found in conflict with the highway construction project contemplated herein. All costs incurred by the COMPANY related to such relocation or adjustment of its existing facilities shall be reimbursed through a separate agreement by the COUNTY in accordance with Federal and State laws. Comparable pre-existing ingress and egress to COMPANY property rights and facilities will be provided to the COMPANY at COUNTY expense. COMPANY retains fully adequate right of ingress and egress to COMPANY property rights and facilities over the property that is the subject of the highway construction project contemplated herein.

5. The COMPANY retains the right to operate and maintain existing facilities and to install, operate and maintain new facilities as required, except that the future installation, operation and maintenance of the COMPANY'S facilities shall be in accord with the Utility Accommodation Policy and Standards Manual, current edition, issued by the Georgia Department of Transportation and Title 23 of the CFR, Chapter I, Subchapter G, Part 645, Subparts A and B. It is agreed that the COMPANY has the right now and in the future to install, operate and maintain its facilities over that portion of said highway within the required right-of-way.

6. The COUNTY will require its Contractor to abide by the attached Special Provision (marked "Exhibit B") for the protection of the existing electrical transmission facilities owned and operated by the COMPANY within the limits of the required right-of-way. The attached Special Provision will be included and made a part of the contract between the COUNTY and its Contractor.

7. The COUNTY agrees to notify the COMPANY when the highway construction contract is awarded and furnish the name of the contractor who will perform the highway work. The COMPANY agrees to plan with the COUNTY 'S Contractor a schedule of operations which will clearly set forth at which stage of the Contractor's operations the COMPANY will relocate or adjust its facilities, if necessary.

8. This Agreement contains the entire agreement of the parties hereto, and no representation, inducements, promises or agreement, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Any amendment to this Agreement shall not be binding upon the parties hereto unless such amendment is in writing and executed by both parties hereto. The provision of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their legal representatives, successors and assigns. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. This Agreement shall be construed and interpreted under the laws of the State of Georgia. Except as otherwise provided herein, all rights, powers and privileges conferred hereunder upon the parties shall be cumulative but not restrictive to those given by law.

STANDARD UTILITY AGREEMENT
EASEMENT LIMITED AGREEMENT

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in three counterparts, each to be considered as an original by their authorized representative the day and date hereinabove written.

WITNESS AS TO SECOND PARTY:

GEORGIA TRANMISSION CORPORATION

BY: _____
WITNESS

BY: _____
NOTARY PUBLIC (SEAL)

BY: _____
PRESIDENT/ VICE PRESIDENT

SWORN TO AND SUBSCRIBED
BEFORE ME THIS _____ DAY
OF _____, 20_____,
My commission expires:

I attest to the genuineness of the COMPANY Seal and I further attest that the above named Officer is duly authorized to execute this document.

ATTEST:

****
FEIN_____
****

BY: _____
SECRETARY/ASST. SECRETARY
(OFFICIAL SEAL)

RECOMMENDED:

BY: _____
NAME/TITLE

ACCEPTED:
FAYETTE COUNTY

BY: _____
NAME/TITLE

PROJECT Nos.: West Fayetteville Bypass
COUNTY: Fayette

Signed, sealed and delivered this _____
day of _____, 20____,

DATE:

(OFFICIAL SEAL OF THE COUNTY)

I attest that the seal imprinted herein is the Official Seal of the COUNTY.

BY: _____
TREASURER
(OFFICIAL CUSTODIAN OF THE SEAL)

EXHIBIT B

FAYETTE COUNTY

SPECIAL PROVISION

PROJECT No.: West Fayetteville Bypass – Phase II – Sec. 2

PROTECTION OF FACILITY INTERESTS

GEORGIA TRANSMISSION CORPORATION

Georgia Transmission Corporation is the owner and operator (also herein referred to as Facility Owner) of electrical transmission facilities crossing over the project at approximate station 125+34 in Fayette County, Georgia.

All reference to liability, indemnification, insurance, etc. in this special provision shall apply only to those electrical transmission facilities located in the required right-of-way areas from station 124+54 (left) to station 125+70 (left) and station 124+80 (right) to station 125+84 (right) along the construction centerline of the proposed West Fayetteville Bypass, these areas having been acquired by Fayette County (also herein referred to as The Department).

The Department hereby notifies the contractor to fully inform his employees, agents or subcontractors of the Official Code of Georgia annotated section 46-3-32 et seq. (safeguards against contact with high voltage lines) and the rules and regulations of the State of Georgia section 300-3-7.01 et seq. (high voltage act). The contractor, his employees, agents and subcontractors shall at all times observe and comply with said act and regulations.

The contractor shall and does hereby agree to indemnify, save harmless and defend The Facility Owner from the payment of any sum of money to any person whomsoever on account of claims or suits growing out of injuries to persons, including death, or damage to property caused by the contractor, his employees, agents or subcontractors or in any way attributable to the performance and prosecution of the work herein contracted for, including (but without limiting the generality of the foregoing), all claims for injuries to persons or damage to property, liens, garnishments, attachments, claims, suits, costs, attorney's fees, costs of investigation and of defense.

The contractor hereby waives and relinquishes any right of subrogation it might have against the Facility Owner under the provisions of the Workmen's Compensation Act of Georgia or of any other State on account of any injury to its employees or sub-contractor caused in whole or in part by The Facility Owner's transmission facilities. The contractor further agrees that it will require its workmen's compensation insurer, if any, to likewise waive and relinquish such subrogation rights.

I. **Insurance**

A. In addition to any other forms of insurance or bonds required under the terms of the contract and specification, the contractor will be required to furnish and maintain policies of insurance covering:

(1) The legal liability of the contractor, and his sub-contractors under the Georgia Workmen's Compensation Act for claims for personal injuries and death to employees engaged in the work.

(2) The legal liability (including contractual) of the contractor, and his sub-contractors who may be engaged in the work, for claims of damages for personal injuries or for death resulting therefrom arising out of the work to be performed under this contract by the contractor, or his sub-contractors, to persons other than employees of the contractor or sub-contractors engaged in the work included in this contract in an amount not less than:

$1,000,000 for any one person
$2,000,000 for any one accident

(3) The legal liability (including contractual) of the contractor, and his sub-contractors who may be engaged in this work, to pay claims for damages to property belonging to others than such contractor, or his sub-contractors, in the amount not less than:

$1,000,000 for any one accident

B. All of the aforementioned insurance shall be placed with an insurance company which is licensed to do business in the State of Georgia and shall be endorsed to cover the liability assumed by the contractor under the provisions of this contract.

(1) It is understood, however, that the provisions requiring the contractor to carry said insurance shall not be construed as in any manner waiving or restricting the liability of the contractor pursuant to the terms hereof which may not be insured under said insurance policies above required.

(2) As evidence of this insurance, and prior to the beginning of any work in connection with this contract, the contractor shall submit to the department and the Facility Owner a certificate providing the above coverage and which certifies that the said policies have been properly endorsed to meet the above requirements and that the facility owner is named as additional insured.

C. If any part of the work is sublet, similar insurance and evidence thereof, in the same amounts as required of the prime contractor, shall be provided by or in behalf of the sub-contractor to cover his operations, endorsements to the prime contractor's policies specifically naming sub-contractors and describing their operations will be acceptable for this purpose.

D. All insurance hereinbefore specified shall be carried until all work required to be performed under the terms of the contract has been satisfactorily completed as evidenced by the formal acceptance by the State. Insuring companies may cancel insurance by permission of the State, The Facility Owner, or on thirty (30) days written notice to the Department and The Facility Owner as follows:

Notice to:
Sr. Land Asset Coordinator
Georgia Transmission Corporation
2100 East Exchange Place
Tucker, Georgia 30084-5336

Copy notice to:
Anthony Stanley
Public Works Department
Fayette County Board of Commissioners
115 McDonough Road
Fayetteville, GA 30215

II. **Failure to comply**

In the event of cancellation or lapse of insurance policy:

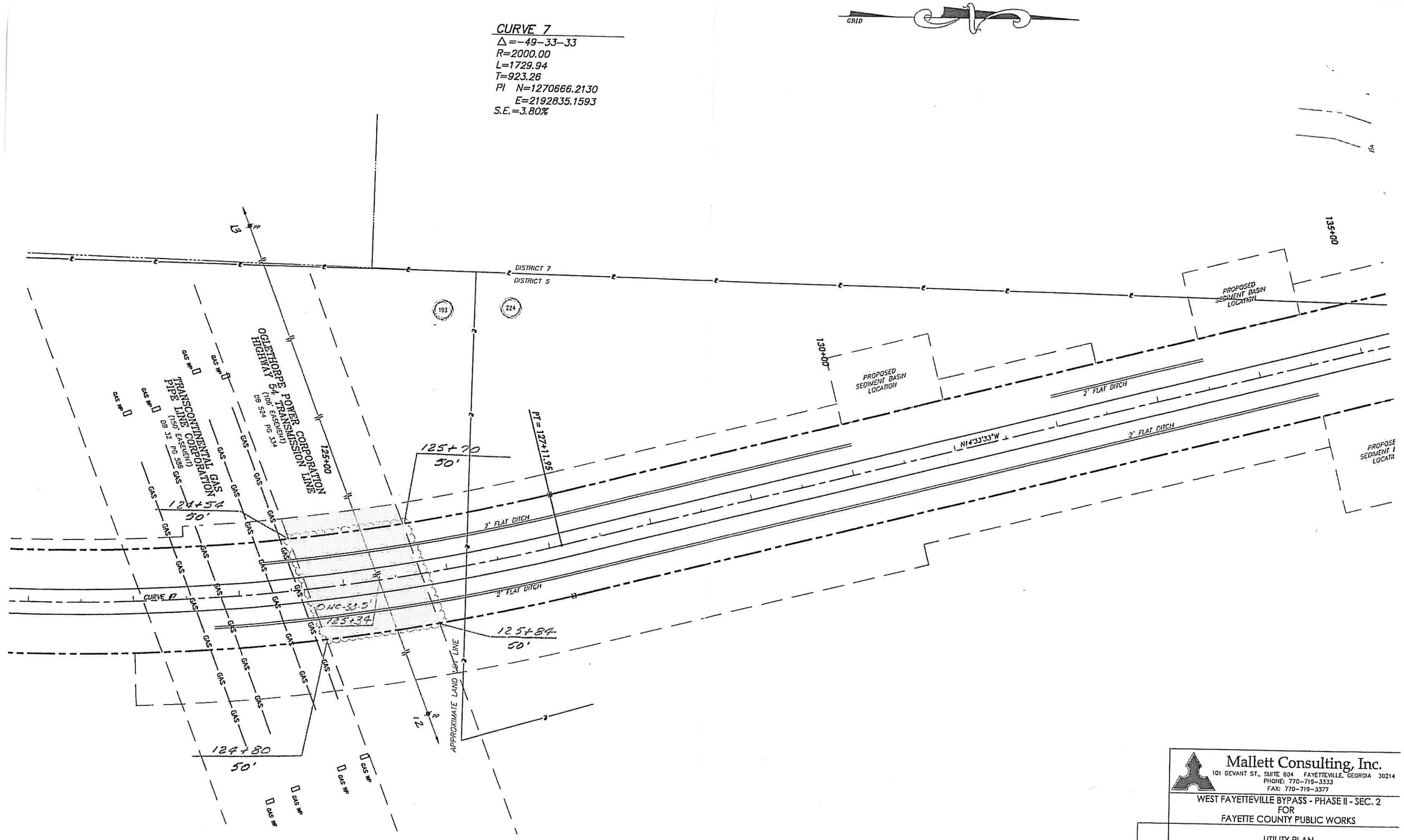
The Facility Owner may require that the contractor vacate the aforementioned Facility Owner's right-of-way or easement area.

The highway engineer may withhold all monies due the contractor on monthly statements.

Any such orders shall remain in effect until the contractor has remedied the situation to the satisfaction of the Facility Owner's representative and the highway engineer.

III. **Payment for cost of compliance:**

No separate payment will be made for any extra cost incurred on account of compliance with this special provision. All such cost shall be included in prices bid for other items of the work.



Mallett Consulting, Inc.
101 DEVANT ST., SUITE 804 FAYETTEVILLE, GEORGIA 30214
PHONE: 770-719-3333
FAX: 770-719-3377

WEST FAYETTEVILLE BYPASS - PHASE II - SEC. 2
FOR
FAYETTE COUNTY PUBLIC WORKS

UTILITY PLAN

LAND LOT –	DESIGN MCI	SCALE 1" = 40'
DISTRICT – 5th, 7th	DRAWN RD, SG, JB	DATE 6/11/09
SECTION –		

SURVEYS PLUS, INC.