

# SOUTHERN ENVIRONMENTAL LAW CENTER

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## **Via Email and U.S. Mail**

Richard O'Hara, Project Manager, Office of Innovative Delivery  
Xavier James, Project Manager, Office of Program Delivery  
Georgia Department of Transportation  
One Georgia Center  
600 West Peachtree Street, NW  
Atlanta, Georgia 30308

### **Re: Complete Streets in the Courtland Bridge Project (PI 752015)**

Dear Mr. O'Hara and Mr. James:

The Southern Environmental Law Center (SELC) submits this letter regarding GDOT's obligation to comply with its Complete Streets Policy and provide appropriate bicycle and pedestrian facilities in the Courtland Street Bridge reconstruction project. SELC is a regional public interest law and policy center working to increase clean and efficient transportation options in the Southeast. SELC seeks to expand non-motorized transportation solutions in the City of Atlanta that will benefit bicyclists, pedestrians, transit users, and drivers alike.

We are writing out of concern that the current plans for the Courtland Street Bridge replacement do not adequately accommodate bicycle and pedestrian ("bike/ped") users. GDOT's Complete Streets Policy and federal law make clear that this is precisely the type of project where facilities must be included for non-motorized users. This letter provides the legal justifications for including such facilities. We look forward to working with the appropriate stakeholders to discuss how to include appropriate bike/ped facilities in the bridge reconstruction project.

### **THE PROPOSED PROJECTS**

GDOT is undertaking a full replacement of the Courtland Street Bridge between Gilmer Street and Martin Luther King Jr. Drive in the City of Atlanta under project number PI 752015. This bridge—a major thoroughfare through the Georgia State University campus and very near the Georgia State Capitol—experiences heavy pedestrian traffic. Importantly, the bridge connects several university buildings and provides primary access to adjacent parking garages. GDOT's plans for the reconstructed bridge deck include six-foot sidewalks on either side of four one-way vehicle lanes.

Despite local plans and input from stakeholders, the current design of the project does not adequately accommodate bike/ped users. Although the City of Atlanta’s Connect Atlanta Plan contemplates this corridor for a future cycle track (see enclosed excerpt), GDOT’s plans do not include bicycle facilities. Moreover, major stakeholders in the corridor have raised concerns about bike/ped safety on the bridge and the need to provide wider sidewalks with buffers.

### PUBLIC REQUESTS FOR BIKE/PED FACILITIES

Bike/ped accommodation along this important corridor enjoys strong support from the public and neighboring institutions. Citing the need to accommodate significant bicycle and pedestrian traffic, Georgia State University and Central Atlanta Progress have called for GDOT to reduce the number of vehicle lanes and provide bike/ped facilities along the bridge. In a letter to Commissioner McMurry, GSU President Dr. Mark Becker requested a reduction of travel lanes, widened sidewalks, and provision of a bicycle lane in order to “provide a much safer and user-friendly pedestrian environment” and “promote bicycle use and be consistent with recent City of Atlanta initiatives.”<sup>1</sup> President of Central Atlanta Progress, A.J. Robinson, made a similar request for lane reductions and bike lane additions. Finally, the vast majority of written comments that GDOT received at its October 2016 Open House requested wider sidewalks, vehicle lane reductions, and bike lanes. Several comments specifically called for the implementation of Complete Streets.

Reconstructing the bridge to include wider sidewalks and reduced vehicle lanes is indeed feasible.<sup>2</sup> However, GDOT disputes its responsibility to provide such facilities within the scope of this project. GDOT has specifically stated that “changes to the sidewalk widths and vehicle lane widths are not part of this proposed project” and that the decision to make such changes “falls upon the City of Atlanta entirely” after construction is completed.<sup>3</sup> Deferring the responsibility to the City to retroactively change lane widths and restripe bike lanes in a future project does not meet the level of bike/ped accommodation required by GDOT. As explained below, both federal law and GDOT’s Complete Streets Policy require the agency to affirmatively accommodate bike/ped users in this project and implement the appropriate facilities to do so.

### LEGAL SUPPORT FOR ACCOMMODATION

Federal law and policy and GDOT’s own Complete Streets Policy require GDOT to provide bike/ped facilities on bridge replacement projects. In addition to the legal requirements, both the Federal Highway Administration and GDOT have made strong policy statements that roads and bridges must be designed to accommodate all users. Under these frameworks, the

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<sup>1</sup> Letter from Mark Becker, President, GSU to Russell McMurry, Commissioner, GDOT (Oct. 25, 2016).

<sup>2</sup> Letter from Meg Pirkle, Chief Engineer, GDOT to Faye DiMassimo, General Manager, Renew Atlanta (Jan. 9, 2017).

<sup>3</sup> Open House Response Letter from Eric Duff, State Environmental Administrator, GDOT (Dec. 19, 2016).

replacement of the Courtland Street Bridge should include appropriate bike facilities and wider, buffered sidewalks to allow non-motorized users to cross the bridge safely and without obstacle.

*I. Federal Law Requires the Bridge Replacement to Include Bike/Ped Facilities*

Federal law and agency guidance provide clear and explicit support for accommodating bike/ped users in federal-aid transportation projects, including bridge reconstructions. By statute, states must give “due consideration” to bicyclists and pedestrians in both plans and projects and must consider “bicycle transportation facilities and pedestrian walkways” in all projects to reconstruct transportation facilities.<sup>4</sup> Similarly, FHWA regulations require that “the safe accommodation of pedestrians and bicyclists [be] given full consideration during the development of Federal-aid highway projects.”<sup>5</sup>

The need to provide facilities for non-motorists arises specifically in bridge replacement projects. Bike/ped needs must be incorporated when a highway bridge deck is replaced using federal monies, as is the case in the Courtland Street Bridge replacement project.<sup>6</sup> Indeed, where bicycles are permitted to operate at each end of a bridge, any bridge replacement projects must be constructed so as to provide safe bicycle accommodations.<sup>7</sup> Agency guidance applies this directive to pedestrians as well.<sup>8</sup> FHWA regulations reiterate the requirement to include bike/ped facilities along reconstructed bridges and encourage “consultation with local groups of organized bicyclists” to develop bicycle projects.<sup>9</sup>

Under FHWA’s direction, including bike/ped facilities should be a matter of routine for states when designing new or reconstructed transportation projects.<sup>10</sup> FHWA and USDOT guidance and policy documents emphasize this expectation and encourage every transportation agency to incorporate safe and convenient walking and bicycling facilities into transportation projects.<sup>11</sup> Moreover, state transportation departments should “go beyond the minimum requirements” to incorporate bike/ped facilities.<sup>12</sup> In any project, a decision not to accommodate

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<sup>4</sup> 23 U.S.C. § 217(g).

<sup>5</sup> 23 C.F.R. § 652.5.

<sup>6</sup> 23 U.S.C. § 217(e). By definition, “highway” includes roads, streets, parkways, and other transportation facilities in connection with such roadways. 23 U.S.C. § 101(a)(11).

<sup>7</sup> *Id.*

<sup>8</sup> See USDOT Policy Statement on Bicycle and Pedestrian Accommodation Regulations and Recommendations, [https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/guidance/policy\\_accom.cfm](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/guidance/policy_accom.cfm) (last accessed Mar. 3, 2017).

<sup>9</sup> 23 C.F.R. § 652.5.

<sup>10</sup> FHWA Guidance: Bicycle and Pedestrian Provisions of Federal Transportation Legislation, [https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/guidance/guidance\\_2015.cfm](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/guidance/guidance_2015.cfm) (last accessed Mar. 6, 2017); FHWA, Transmittal of Guidance on Bicycle and Pedestrian Provisions of the Federal-aid Program, [https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/guidance/memo.cfm](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/guidance/memo.cfm) (last accessed Mar. 6, 2017).

<sup>11</sup> FHWA, Transmittal of Guidance, *supra* note 10; FHWA Guidance: Bicycle and Pedestrian Provisions, *supra* note 10; USDOT Policy Statement, *supra* note 8.

<sup>12</sup> USDOT Policy Statement, *supra* note 8.

bike/ped users “should be the exception rather than the rule.”<sup>13</sup> Only exceptional circumstances should foreclose safe and convenient bike/ped accommodation.<sup>14</sup>

## II. *GDOT’s Complete Streets Policy Also Requires Bike/Ped Facilities*

Georgia has implemented the federal requirements to routinely accommodate bike/ped users by enacting a Complete Streets Policy in September 2012. Under this policy, GDOT should integrate safe bike/ped facilities into roadway construction projects and project design should anticipate the demand for bike/ped facilities within the design life of the facility.<sup>15</sup> Accordingly, GDOT must coordinate with local governments and regional planning agencies to ensure that bike/ped needs are addressed during the planning, design, construction, maintenance, and operations of transportation infrastructure projects.<sup>16</sup> As the policy explains, GDOT’s “primary strategy” for implementing Complete Streets is to actually “incorporate [bike/ped] accommodations into roadway construction.”<sup>17</sup>

As of the adoption of the policy, any projects in the planning, concept development, or preliminary plan phases must be evaluated to comply with the policy. In addition, all projects advancing to final design or approval of right-of-way plans on or after October 1, 2013 must comply with the policy. This mandate was memorialized in correspondence to all GDOT divisions and offices by GDOT’s chief engineer at the time.<sup>18</sup> Under this directive, GDOT must determine the needs of bike/ped users and document those findings in the concept report in a manner sufficient to evaluate the “warrants” discussed below.<sup>19</sup> Should the findings indicate that a project will adversely impact existing bike/ped users, GDOT must note those impacts as well.<sup>20</sup>

The Complete Streets Policy defines bike/ped accommodation as “any facility, design feature, operational change, or maintenance activity that provides or improves either non-motorized and/or transit travel.”<sup>21</sup> Examples of accommodation include “sidewalks, curb ramps, pedestrian crossings, bicycle lanes” and others. To determine when accommodation is required, the policy relies on a warrant-based system: where certain conditions or “warrants” are present, transportation infrastructure projects must accommodate bike/ped users.<sup>22</sup> Warrants are divided between “standard” (mandatory) and “guideline” (discretionary). The presence of a standard warrant requires that “[bike/ped] accommodations *shall* be considered in all planning studies,

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<sup>13</sup> FHWA, *Accommodating Bicycle and Pedestrian Travel: A Recommended Approach*, [https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/guidance/design.cfm](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/guidance/design.cfm) (last accessed Mar. 3, 2017).

<sup>14</sup> *Id.* The same guidance notes that the cost of establishing bikeways or walkways is considered “excessively disproportionate to the need or probable use” where that cost exceeds twenty percent of the larger project cost. *Id.*

<sup>15</sup> GDOT, *Design Policy Manual*, 9-2 (Jan. 20, 2017).

<sup>16</sup> *Id.* at 9-1.

<sup>17</sup> *Id.*

<sup>18</sup> GDOT Interdepartment Corr. from Gerald M. Ross, Chief Engineer re: Complete Streets Policy (Sep. 20, 2012).

<sup>19</sup> GDOT, *Design Policy Manual*, 9-6 – 9-7, *supra* note 15.

<sup>20</sup> *Id.* at 9-7.

<sup>21</sup> *Id.* at 9-4.

<sup>22</sup> *Id.* at 9-15.

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and [shall] be included in all reconstruction.”<sup>23</sup> Here, standard warrants are present for both pedestrian and bicycle accommodation purposes, especially because the project is on an alignment with existing bike/ped travel generators and destinations, such as the university.<sup>24</sup> Therefore, GDOT is affirmatively required to include bike/ped facilities in reconstruction.

### *III. Bike/Ped Facilities are Necessary to Maintain Consistency with Local Plans*

Finally, this reconstructed facility should be consistent with local plans, which include important bicycle and pedestrian networks in the area. The Complete Streets Policy encourages consistency with plans developed by regional planning commissions, metropolitan planning organizations, and local governments. During project planning, the policy directs GDOT to consult the plans and maps for such networks in order to evaluate bike/ped accommodation.<sup>25</sup> Moreover, “the need for [such] accommodations should always consider local and projected conditions along and near the corridor being improved.”<sup>26</sup>

Here, public comments clearly identify the corridor as a major pedestrian thoroughfare. In addition, the City of Atlanta’s Connect Atlanta Plan includes this route as a connected bike route. Under that plan, the span of the bridge is slated for a protected cycle track as part of the larger Peachtree Corridor bike network, which the plan identifies as “the ‘spine’ of the cycling network in Atlanta”<sup>27</sup> (see enclosed excerpt). The failure to include bike/ped facilities at this juncture disregards those plans, although the Complete Streets Policy requires GDOT to avoid inconsistencies with local plans. In keeping with its policy, GDOT should seek input from local bike/ped advocacy groups, consult local plans, and consider conditions in the corridor in order to accommodate bike/ped users on the reconstructed bridge.<sup>28</sup> Considering the input GDOT has already received from its public outreach efforts, bike/ped facilities are a necessary component of this reconstruction project.

## CONCLUSION

The question of including bike/ped facilities in the reconstruction of the Courtland Street Bridge is not one of design or engineering practicability. Rather, it is a question of GDOT’s responsibility to provide such facilities to bike/ped users. Federal statutes, regulations, guidance, and GDOT’s own Complete Streets Policy clearly answer this query. They all require the agency to affirmatively incorporate safe and convenient bike/ped facilities into bridge replacement projects. Indeed, FHWA calls on state transportation agencies to go beyond the minimum requirements, which is a higher duty than merely avoiding the preclusion of future

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<sup>23</sup> *Id.* at 9-15 – 9-16. In contrast, a guideline warrant indicates that “[bike/ped] accommodations *should* be considered.”

<sup>24</sup> *See id.* at 9-16.

<sup>25</sup> *Id.* at 9-7 and 9-11.

<sup>26</sup> *Id.* at 9-7.

<sup>27</sup> Cycle Atlanta: Phase 1.0 Study, A Supplement to the Connect Atlanta Plan (2015), pp. 20-23, 39, 124-25.

<sup>28</sup> *See* GDOT, Design Policy Manual, 9-7 and 9-11, *supra* note 15.

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accommodations. In light of these legal requirements, we strongly encourage GDOT to affirmatively accommodate bike/ped users in the bridge reconstruction at this juncture. These directives can be accomplished by incorporating bike facilities and wider, buffered sidewalks along the bridge. We welcome the opportunity to discuss such accommodations and provide technical expertise to meet these needs.

Thank you for your consideration of these comments. Please contact us with any questions or concerns at (404) 521-9900 or [hbarnes@selcga.org](mailto:hbarnes@selcga.org) and [bgist@selcga.org](mailto:bgist@selcga.org).

Sincerely,



Helen Barnes  
Associate Attorney  
Southern Environmental Law Center



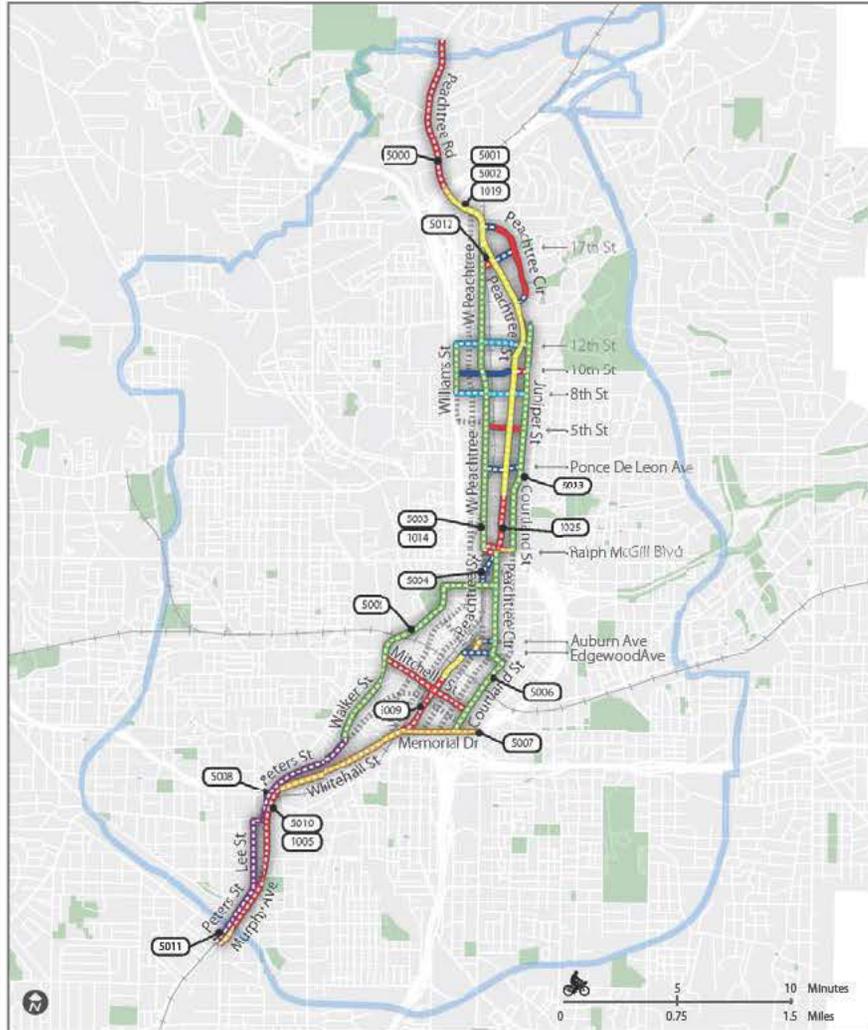
Brian Gist  
Senior Attorney  
Southern Environmental Law Center

Enclosure: Connect Atlanta Plan, Cycle Atlanta excerpt

cc by U.S. Mail:

Rodney Barry, Division Administrator (FHWA)  
Russell McMurray, Commissioner (GDOT)  
Meg Pirkle, Chief Engineer (GDOT)  
Katelyn DiGioia, Bike & Pedestrian Coordinator (GDOT)  
Faye DiMassimo, Renew Atlanta General Manager (City of Atlanta)  
Mark Becker, President (GSU)  
A.J. Robinson, President (Central Atlanta Progress)

Corridor A Network Design Map

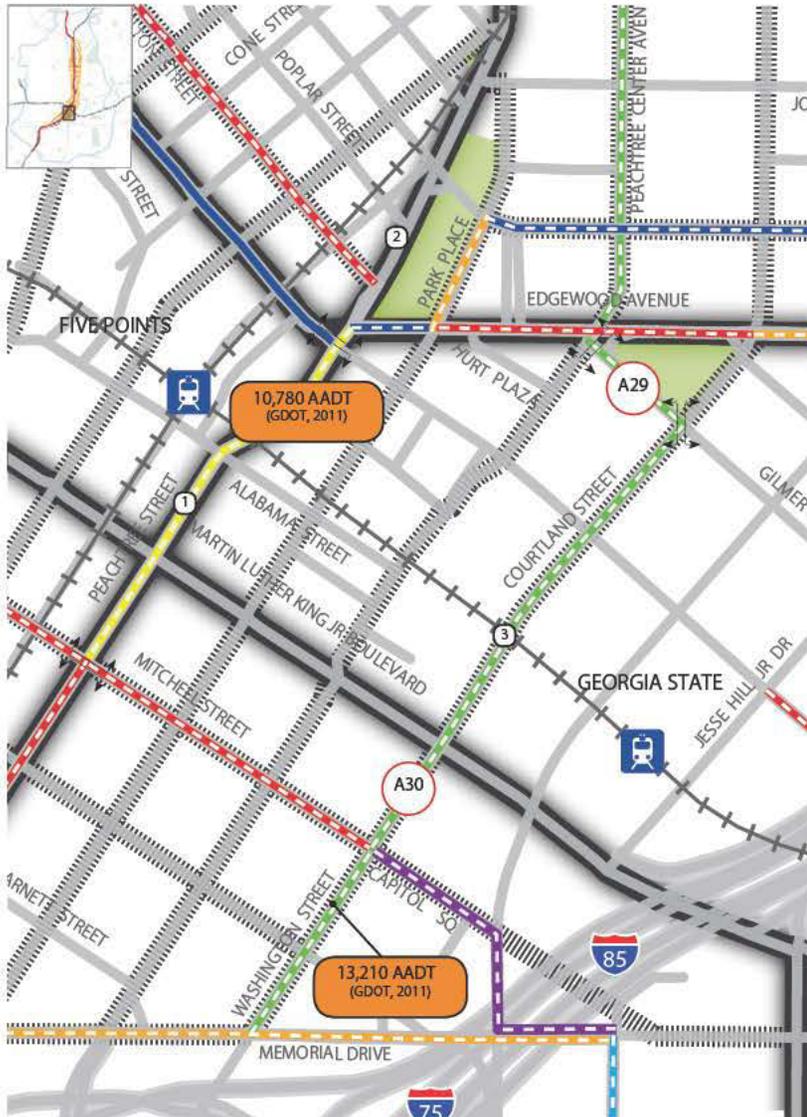


Corridor A Projects

The projects listed in the table below are the projects currently programmed for construction along the corridor as well as new projects proposed as part of the *Cycle Atlanta: Phase 1.0 Study*. Facility type, the street that the project applies to, a description of the start and end points for the projects and a summary cost estimate are provided. Additional project cost information is provided in the Appendix for each project.

ID	Facility Type	Street	To	From	Cross Section(s)	Cost
1005	Bike Lane	Murphy Avenue	Ralph David Abernathy Boulevard	Sylvan Road		n/a
1014	Protected Cycle Track	West Peachtree Street	12th Street	North Avenue		n/a
1019	Shared Lane Marking	Peachtree Street	West Peachtree Street	North Avenue		n/a
1025	Bike Lane	Peachtree Street	North Avenue	Ivan Allen Jr Boulevard		n/a
5000	Bike Lane	Peachtree Road	Colonial Homes Drive	Interstate 85	A1, A2, A3, A4	\$229,841
5001	Bike Lane	Peachtree Street	Interstate 85	Linden Avenue	A5, A6b, A7b, A8b, A13b, A14b, A16b, A19b, A21b	\$478,072
5002	Shared Lane Marking	Peachtree Street	Interstate 85	Linden Avenue	A5, A6a, A7a, A8a, A13a, A14a, A16a, A19a, A21a	\$98,221
5003	Cycle Track	West Peachtree Street	Peachtree Street	Porter Place	A12, A15, A17, A18, A20, A22, A24, A26, A27	\$280,876
5004	Shared Lane Markings	Peachtree Street	Porter Place	John Portman Boulevard	A28, A48	\$4,899
5005	Cycle Track	Centennial Olympic Park Drive	Marietta Street	Nelson Street	A43, A44, A45, A46	\$264,858
5006	Cycle Track	Gilmer Street-Courtland Street-Washington Street	Peachtree Center Avenue	Memorial Drive	A29, A30	\$286,312
5007	Buffered Bike Lane	Memorial Drive	Peachtree Street	Fraser Avenue	A32	\$142,496
5008	Multi-Use Path	Peters Street-Whitehall Street	Walker Street	Ralph David Abernathy Boulevard	A34, A35, A37	\$885,364
5009	Bike Lane	Peachtree Street	Mitchell Street	Memorial Drive	A31	\$84,859
5010	Bike Lane	Whitehall Street-Murphy Avenue	Peachtree Street	Sylvan Road	A33, A36, A39, A40, A42	\$241,995
5011	Multi-Use Path	Lee Street	Sylvan Road	Ralph David Abernathy Boulevard	A38, A41	\$990,568
5012	Bike Lane/Shared Lane Marking	17th Street	West Peachtree Street	Peachtree Circle	A9, A10, A11	\$17,117
5013	Cycle Track	Courtland Street	Ponce de Leon Avenue	Ralph McGill Boulevard	A47	\$93,590

- Notes
- 1000 series: Facilities to be built in 2013
  - 2000 series: Facilities to be built in 2014
  - 3000 series: Facilities to be built in 2015
  - 4000 series: Unfunded high-priority projects we hope to fund by 2016
  - 5000 series: Facilities developed as part of the *Cycle Atlanta: Phase 1.0 Study*; 5000 - 5019 is for Corridor A projects, 5020 - 5039 is for Corridor B projects, 5040-5059 is for Corridor C projects, 5060 - 5079 is for Corridor D projects, and 5080 - 5099 is for Corridor E projects
  - Cost estimates include an estimate of probable cost for construction, design cost (25% of construction cost), and contingency cost (20% of construction costs). Construction costs can include re-stripping costs, signal improvements, new pavement markings, and multi-use path construction. Construction costs do not include resurfacing costs. Cost estimates for 1000 to 4000 series projects are not provided because they have already been funded, are in the process of being designed, or are in the process of being constructed.



Cross Section ID	Cross Section	Street	From	To	Existing Travel Lanes	Proposed Travel Lanes	Notes
A29	<p><b>2-WAY CYCLE TRACK</b></p> <p>10'   3'   7.5'   10'   10'   7.5'</p> <p>48' ROADWAY SURFACE WIDTH</p>	Gilmer Street	Peachtree Center Avenue	Courtland Avenue	3	2	2 travel lanes; on-street parking both sides of street
A30	<p><b>2-WAY CYCLE TRACK</b></p> <p>10'   3'   10'   10'   10'</p> <p>44' ROADWAY SURFACE WIDTH</p>	Courtland Street/Washington Street	Gilmer Street	Memorial Drive	4	3	3 travel lanes

- Additional Notes**
- The Atlanta Downtown Improvement District (ADID) is currently working on a streetscape and plaza project for Peachtree Street near the Five Points MARTA station. Specifically, ADID is developing concepts for the segment of Peachtree Street from Martin Luther King Jr. Boulevard to Marietta Street. The overall goal for this segment is to design a street environment that is more supportive of transit and pedestrians. With the emphasis on pedestrians, low vehicular volumes, and speeds, the street will likely not need a dedicated bike facility. However as designs are developed, they should consider design elements that support a bicycle connection to the Five Points MARTA station.
  - Once the Atlanta Streetcar construction is completed, a bicycle facility connection should be developed to connect cyclists between Walton Street and Auburn Avenue and Edgewood Avenue.
  - A new Georgia State MARTA station entrance has been proposed at Courtland Avenue. If this station entrance is developed, this entrance should be developed as the primary bicycle entrance for the station.