

# Local Administered Project (LAP) Manual



6/30/2023  
Revision 3.3  
Atlanta, GA 30308

This document was developed as part of the continuing effort to provide guidance within the Georgia Department of Transportation in fulfilling its mission to provide a safe, efficient, and sustainable transportation system through dedicated teamwork and responsible leadership supporting economic development, environmental sensitivity and improved quality of life. This document is not intended to establish policy within the Department, but to provide guidance in adhering to the policies of the Department.

Your comments, suggestions, and ideas for improvements are welcomed.

Please send comments to:

[LAPPDPinfo@dot.ga.gov](mailto:LAPPDPinfo@dot.ga.gov)

Office of Program Control

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### **DISCLAIMER**

The Georgia Department of Transportation maintains this printable document and is solely responsible for ensuring that it is equivalent to the approved Department guidelines.

## Revision Summary

Revision Number	Revision Date	Revision Summary
<b>Original</b>	2009	N/A
<b>1.0.09</b>	10/31/11	Section 3.4 & 3.10 Appendix E – Construction Engineering oversight (added) Appendix G – Materials Testing (update) Appendix I – Invoice procedures for PM's (added)
<b>2.1</b>	5/20/15	N/A
<b>2.2</b>	6/8/15	Updated hyperlinks and fixed other template issues
<b>2.3</b>	10/13/16	Purpose – Updated purpose Definitions – Updated definitions Chapter 10 and 11 – Updated entire section Appendix E, F G and I – Updated entire section
<b>2.4</b>	8/20/18	Updated GDOT logo throughout
<b>3.0</b>	9/24/20	Updated all sections and fixed broken hyperlinks Chapter 14 references – Removed section Appendix A, B, C, D, E, G, H, J and K – Removed sections Appendix A – GDOT Local LET Construction Contract & Commercially Useful Function (previously Appendix F) Appendix B – GDOT Local Let Procedure and Example Letters (previously Appendix I)
<b>3.1</b>	10/7/21	Definitions - Minor updates to definitions and acronyms All Chapters - Updated DPPC to DPPL throughout Chapter 1 - Updated links and format Chapter 2 - Added alternate responsible charge public employee Chapter 3 - Added new links to LAP website for NDA, LAP Compliance, TAP webpage Section 3.4 – Removed Limited LPA Administration Section 3.5 – Removed PE license requirement and updated Training class and consultant expectations. Section 3.9 – Added LAP compliance requirements Chapter 4 through Chapter 12 - Updated hyperlinks and minor changes to text and format

<b>3.2</b>	4/12/22	Chapter 1 – Updated TE projects verbiage
<b>3.3</b>	6/30/23	<p style="text-align: center;">Updated GDOT logo in manual</p> <p style="text-align: center;">Chapter 1 – Added engineering credentials and updated hyperlinks</p> <p style="text-align: center;">Chapter 2 – Revised Local Government Certification Acceptance</p> <p style="text-align: center;">Chapter 3 – Updated hyperlinks. Added LG requirements for certification. Added TAP program for project requirements</p> <p style="text-align: center;">Chapter 4 - 5, 7 - 8,10 - 12 – Updated hyperlinks</p> <p style="text-align: center;">Chapter 5 – Updated hyperlinks</p> <p style="text-align: center;">Chapter 6 – Removed LG Qualification Certification Agreement</p> <p style="text-align: center;">Chapter 9 – Revised minor info</p> <p style="text-align: center;">Chapter 13 – Revised minor info</p>

## Purpose

According to Federal Highway Administration (FHWA), Locally Administered Projects (LAP) by cities and counties in 45 States across the nation are estimated to involve \$6-8 billion in Federal-aid contracts. Annually, nearly 20% of the national Federal-aid program is now administered by local public agencies and in Georgia's Statewide Transportation Improvement Program 20.86% is currently shown as locally administered projects.

The purpose of the Local Administered Project Manual is to establish uniform practices for authorizing qualified Local Public Agencies (LPA) to manage certain core activities for Federal-aid funded projects. Under Title 23 U.S.C. the State Transportation Agencies are responsible for the administration of Federal-aid transportation projects. Title 23 U.S.C. does not recognize local entities as direct recipients of Federal-aid funds. Georgia Department of Transportation (GDOT) assumes the responsibilities of the Secretary of Transportation for all Federal-aid projects. GDOT stewardship includes the responsibility to assure local projects meet or exceed all applicable Federal and State laws, standards and requirements.

The roles and responsibilities of the Federal Highway Administration-Georgia Division (FHWA), GDOT and Local Governments are defined in this LAP Manual.

GDOT has created the GDOT Project Manager role that is the responsible organizational point of contact for defining Local Government qualifications, LAP certification and Local Government Let Project coordination.

The GDOT Local Administered Project Manual will be in a state of review and revision as evolving Federal-aid project requirements come about. This LAP Manual will be placed on the GDOT Local Government webpage where the application, applicable forms and manuals, and other LAP related resources can be found. Questions, comments and recommendations are appreciated and encouraged.

Please visit the GDOT webpage at

<http://www.dot.ga.gov/PS/Local/LAP>

To submit questions or comments specific to the GDOT Local Administered Project Manual send to [LAPPDPinfo@dot.ga.gov](mailto:LAPPDPinfo@dot.ga.gov) or

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## List of Effective Chapters

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## Acronyms and Definitions

### Definitions

Acceptance Testing – Sampling and testing performed to evaluate acceptability of the product (i.e. soils and aggregate classification, density testing, asphalt mixture testing, concrete air, slump, cylinders, etc.). See [Sampling, Testing & Inspection \(STI\) Quick Guide](#).

Authorization of a Project - The process by which funds are approved for various stages of a project's development, such as design, right-of-way purchase, or construction.

American Association of State Highway and Transportation Officials (AASHTO) – An organization made up of state's Department of Transportation including Puerto Rico and the District of Columbia.

CA (Certification Acceptance) – Certification Acceptance is a program in which the GDOT, through a stewardship agreement with the FHWA, delegates some or all authority to qualified local agencies for approving project development and construction administration. This procedure permits an agency to retain more of the approval authority at the local level when developing FHWA assisted transportation projects. GDOT delegates this authority through a Certification Acceptance (CA) program that does not eliminate any project development procedures. Benefits of CA to a local agency include savings in time and money since the agency has the authority to develop, advertise, award, and manage its own projects. CA requires local agencies to commit sufficient staff and other resources to project administration to ensure that all applicable state and federal requirements are met, and that the work can be accomplished efficiently. Once an agency has been certified, the certification agreement remains in effect for a period of three (3) years unless rescinded due to lack of performance or modified by one of the parties. A CA agency has the option of requesting that GDOT or another CA agency administer any given project. By agreeing to accept federal aid funds, the local agency understands its roles and responsibilities with respect to carrying out the federal aid program. GDOT is permitted to delegate certain activities, under its supervision, to local agencies under federal regulation 23 CFR 1.11 and 635.105; however, GDOT accepts responsibility for delegated activities.

Concept – A consensus beginning recommendation, idea, or starting point of a transportation solution to an identified transportation need.

Conceptual Stage - The objective of the concept stage is to develop a concept report that will describe and recommend project footprint, including logical termini.

Concrete Certification – Field Concrete technician as certified by GDOT

Construction Work Program - A listing of State and Federally funded projects approved by the Transportation Board with one or more elements, Scoping, Preliminary Engineering, Right-of-Way Acquisition, or Construction, scheduled in the current and next nine (9) fiscal years.

Controlling Criteria – Those controlling design guidelines, as defined by AASHTO and accepted by the FHWA, that a project should be designed to meet using good engineering judgment. A design exception or variance will be obtained when one or more of these controlling criteria cannot be met. See Chapter 8 of the Plan Development Process (PDP) for a listing of the controlling criteria.

Context Sensitive Design - Context Sensitive Design is a collaborative approach to design that weaves together design principles, environmental concerns and community quality of life into one

complete package. It's balancing the concerns and desires of the community for their environment and way of life with the sound engineering practices endorsed by AASHTO. It is also firmly involves the public in the decision making process to encourage ownership and responsibility for the final product.

Cooperating Agency - As defined in the Council on Environmental Quality's (CEQ) Regulations for Implementing the Procedural Provisions of the NEPA, "any organization other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in ...[a] major Federal action significantly affecting the quality of the human environment." The CEQ emphasizes that agency cooperation should begin early in the National Environmental Policy Act (NEPA) process.

Environmental Justice – The fair treatment and meaningful involvement of all people regardless of race, color, or economic status with respect to the development, implementation and enforcement of environmental laws, regulations and policies. Fair treatment means that no group of people shall bear a disproportionate share of the negative environmental impacts that result from a particular project or program and shall share in the benefits derived from such projects and programs.

Exempt Projects – A Federal aid project that is not subject to FHWA oversight. Exempt projects as used in this document, unless otherwise noted, do not refer to Air Quality Exempt. However, the FHWA retains approval authority for the environmental document. For further information concerning [Exempt Projects, see Policies and Procedures 2410-1](#).

Federal Emergency Management Agency (FEMA) – The Federal agency charged with the enforcement of Executive Order (EO) 11988. The primary function of the agency is to avoid long and short term adverse impacts associated with the occupancy and modification of floodplains and to restore and preserve the natural and beneficial values served by floodplains. The agency assesses floodplain hazards in all construction of Federal and Federally Aided buildings, structures, roads, or facilities, which encroach upon or affect the base floodplain.

Federal Highway Administration (FHWA) - The Federal Highway Administration (FHWA) is an agency of the U.S. Department of Transportation and is headquartered in Washington, D.C., with field offices across the United States. The FHWA administers the Federal-Aid Highway Program.

Federal Transit Administration (FTA) – The Federal Transit Administration is the federal agency that helps cities and communities nationwide provide mobility to their citizens. Through its grant programs, FTA provides financial & planning assistance to help plan, build, and operate rail, bus & para-transit systems. <http://www.fta.dot.gov/>

FTA ITS Regulation – The FTA companion regulation to FHWA's ITS Rule 940, which is functionally exactly the same as the FHWA rule, but it applies to federally funded transit projects.

Final Field Plan Review (FFPR) – A review of final plans and specifications, special provisions, permits, and right-of-way agreements. The Final Field Plan Review (FFPR) shall be held a minimum of 24 weeks prior to letting.

Fiscal Year – The State of Georgia fiscal year is July 1 to June 30. All budgets and state programs, including transportation plans, adhere to this fiscal year. The Federal fiscal year is October 1 to September 30.

Functional Classification - A grouping of roads, streets, and highways into an integrated system, within which, each roadway facility is ranked by its relative importance and function in providing access and mobility within the integrated system. Based on guidelines issued by FHWA, the Department ranks roadways as local roads, major or minor collectors, and minor or principal arterials. Functional Classification Systems are developed, in cooperation with local officials, for each county and city and submitted to the FHWA for approval.

Georgia Environmental Policy Act of 1991 (GEPA) – This act (Senate Bill 97) passed during the 1991 session of the Georgia Legislature, requires the evaluation and disclosure of environmental effects of proposed state (funded) actions. In general, a proposed action by a government agency must be assessed by the responsible official (the Commissioner is the responsible GDOT official) of that agency to determine and document whether or not the proposed action may significantly affect the quality of the environment. In the event of a determination of a significant adverse effect, the act requires an evaluation of the pros and cons of alternatives that would avoid the adverse impact as well as measures to minimize harm.

Georgia Erosion and Sedimentation Act of 1975 – A plan for the control of soil erosion and sedimentation resulting from a land-disturbing activity. Reference official Code of Georgia Annotated Volume 10 Title 12.

Geographic Transportation Reporting and Query System (GeoTRAQS) – An online mapping tool that connects to the following GDOT databases: Transportation Projects (TPro), Bridge Inventory Maintenance and Management Systems (BIMMS), FleetAnywhere Traffic Interruptions Reports (TIR), Roadway Characteristics (RCFILE), Geographic Information System (GIS), and Design Store. These databases contain maps, reports, photos, and plans all accessible through GeoTRAQS. All of the information shown in GeoTRAQS is directly from queries to the databases in real-time.

Independent Assurance (IA) Testing – Unbiased and independent assessment of all sampling and testing procedures as further described in AASHTO Specification R-44. Standard Practice for Independent Assurance Programs.

Intelligent Transportation Systems (ITS) – Improves transportation safety and mobility and enhances American productivity through integration of advanced communications technologies into the transportation infrastructure and in vehicles. Intelligent Transportation Systems encompass a broad range of wireless and wire line communications-based information and electronics technologies.

Interchange Justification Report (IJR) - An analysis, prepared in accordance with FHWA guidelines, for any proposed new interchange on the Interstate System. The IJR is typically an Office of Planning activity prepared with the assistance of the Division of Engineering. Due to its nature, the IJR provides planning level information for a tentative location with the concept displayed on aerial photography. The Office of Planning submits the IJR to FHWA for consideration.

Interchange Modification Report (IMR) - An operational analysis, prepared in accordance with FHWA guidelines, for the addition or modification of access points to an existing Interstate interchange. The IMR addresses Interstate access point changes that are needed to improve operations and safety of an existing interchange. The IMR is a project specific activity, prepared with the assistance of the Office of Planning. Due to its nature, the IMR is engineering oriented,

providing detailed analyses and preliminary design plans. The Office of Planning submits the IMR to FHWA for consideration.

Let Date - The advertised date that construction bid proposals will be opened for GDOT projects. The Let Date is generally the end of the Plan Development Process. Also see Management Directed Let Date.

Local Government (LG)/Local Public Agencies (LPA) - A county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under state law), regional or interstate government entity, or agency or instrumentality of a local government; an Indian tribe or authorized tribal organization, or Alaska Native village or organization; and a rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a state or political subdivision of a state.

Local Match – The portion of a project cost paid for with local agency funds.

Location and Design Approval (L&D) - Federal Aid projects: Location and design approval is granted by the FHWA with their approval of the project's environmental document acknowledging that the Department has selected an appropriate location and has committed to a specific design of the proposed project.

Location and Design Approval (L&D) - State Funded projects: Location and design approval is granted by the Chief Engineer with the certification that the Department has completed the required public involvement process, the GEPA documentation, has selected an appropriate location, and has committed to a specific design of the proposed project.

Logical Termini - A term used to describe the beginning and ending points of a proposed transportation improvement and whether the selection of these points has a rational basis when viewed in light of the project need and purpose. Federal regulations [23 CFR 771.111(f)] require that projects connect logical termini and be of sufficient length to address environmental matters on a broad scope; have independent utility- that is , be usable and be a reasonable expenditure even if no additional improvements are made in the area; we cannot consider adjoining projects if they are not included in the environmental document and we cannot create the need for other projects; and not restrict consideration of alternatives for reasonably foreseeable transportation improvements. The Department often includes several projects in one environmental document to satisfy the requirement for logical termini.

Major Project – A project that significantly changes the function of the facility being improved, or requires the acquisition of significant amounts of right-of-way, or has a significant impact on abutting property, or has significant changes in travel patterns, or has significant social, economic, or environmental effects. A Major Project will not follow “Time Saving Procedures.” A Major Project will require a public hearing or the opportunity for a public hearing and Location and Design Approval.

Management Directed Let Date – The proposed let date assigned based on when the project will be ready to let. Also see Let Date.



Matching Funds – Projects that are partially funded with federal/state and local dollars. For example, a given funding source may consist of a mixture of 80% federal/state contributions and a 20% local match.

Metropolitan Planning Organization (MPO) – A local government agency charged with the responsibility for the proper transportation planning of a metropolitan area. The MPO performs its mission through a series of committees composed of local professional planning staffs, GDOT planning and design staffs (in cases where the MPO crosses state lines, the DOT staffs of the affected states), local elected officials (both city and county), citizens, and public input.

Minor Project – A project that does not require a significant amount of right-of-way and whose environmental analysis can be accomplished with a “Categorical Exclusion.” Examples of projects that are generally considered minor are Bike/Pedestrian projects, TEA and Ride Sharing projects, Transit enhancements, Transportation studies using capital funds, Turn lane, Intersection improvements, Signal projects, Bridge rehabilitation, Bridge replacements, Signage, Lighting, Landscaping, Traffic barriers, Guardrail projects, Greenway projects, Recreational trail projects, and Maintenance resurfacing projects less than \$1million.

National Environmental Policy Act of 1969 (NEPA) – A Federal law requiring compliance with a variety of Federal environmental laws to ensure that information on environmental impacts of any Federally funded action is available to public officials and citizens before decisions are made and before actions are taken.

National Highway System (NHS) – The NHS is an interconnected system of principal arterial routes which serve major population centers, international border crossings, ports, airports, public transportation facilities, intermodal transportation facilities, major travel destinations, national defense requirements and interstate and interregional travel. Post MAP-21 NHS mileages for 2105 contained 223,668 miles of highways, including all Interstate routes, a large percentage of urban and rural principal arterials, the defense strategic highway network, and major highway connectors. Non-NHS Principal Arterial System (PAS) contained 59, 926 miles of this total mileage as taken from 2011 Highway Performance Monitoring System (HPMS) source data.

Overhead/Subsurface Utility Engineering (SUE) Investigations – The engineering processes that involve managing certain risks associated with accurately and comprehensively identifying, characterizing, and mapping overhead and underground utility facilities. The major activities include utility records research, mapping, designating, utility impact analysis, locating, and data management. Other activities associated with this work are utility relocation design, coordination, and training. These activities, when coordinated with utility owners, Department personnel, and surveyors, provide high quality utility information for use during project development, design, and construction. These activities should conform to current standards and guidelines as described in FHWA and ASCE Subsurface Utility Engineering publications in conjunction with the Department’s current standards, guidelines, processes, and SUE scope of services.

Pavement Type Selection – See GDOT Asphalt Pavement Section Guidelines in the [GDOT Pavement Type Selection Manual](#).

Phase Leader – Functional office that provides a specialized task.

Plans, Specifications, and Estimates (PS&E) – A plan, specification, and estimate review performed on all Projects of Divisional Interest (PoDI), formally known as Full Oversight, projects by the

FHWA. The Local Government (LG) will prepare the PS&E package with input from the Project Manager.

Plan Presentation Guide (PPG) – A guide that sets forth the criteria for the appearance of construction plans. These criteria establish, define, and clarify procedures and standards for plans to be used by the Department. These criteria are not intended to establish design processes; rather, they are guidelines to assure that all drawings have a uniform appearance and include all pertinent information, avoid unnecessary information, and reflect high quality workmanship.

See [Plan Presentation Guide Web Site](#).

Preliminary Field Plan Review (PFPR) – A field review of the preliminary plans and draft special provisions conducted by or for the Office of Engineering Services prior to the development and approval of right-of-way plans. This review occurs after the approval of the environmental document. The emphasis of this review should be the coordination of right-of-way, utilities, bridges and walls, constructability, signs and signals, drainage, and appropriate environmental (including erosion control). For Major Projects, the approval of the Preliminary Field Plan Review (PFPR) Report defines the beginning of Final Design and the completion of the right-of-way plans.

Project Framework Agreement (PFA) - A binding legal agreement between the Department and the Local Government which contains straight forward project phase participation commitments.

Project of Division Interest (PoDI) Project - These are projects administered by the FHWA, for which the FHWA has full responsibility for review, approval and authorization; formally referred to as Full Oversight Projects. Link to Georgia Federal-Aid Stewardship and Oversight Agreement – <https://www.fhwa.dot.gov/federalaid/stewardship/agreements/ga.pdf>

Project Justification – An explanation of the alternatives that were evaluated during the planning process, an explanation of logical termini, and a statement of why the project is needed.

Project Justification Statement – A brief statement provided by either the Office of Planning, Office of Bridge Design, or the Office of Traffic Operations, identifying and explaining the major issue(s) that the project is intended to address. The Project Justification should include any designated Program(s) that the project is included, how the project originated, brief summary of the major issue(s) to be addressed by the project, explanation of the proposed project limits, and performance goal(s).

Project Manager – The person, in responsible charge of a project who makes the day-to-day scope, schedule and budget decisions and is responsible for steering, coordinating, and managing a project through the Plan Development Process and through the construction phase. The Project Manager must possess and maintain excellent communications and strong organizational skills to ensure projects are ready-to-let on time and constructed on time.

Project Schedule – The project schedule includes the planned start and finish dates, based on confirmed assignments and required resources, for each detail activity necessary for the completion of the Plan Development Process. The approved project schedule, called the schedule baseline, provides the basis for measuring and reporting schedule performance.

Project Team – The Preconstruction Project Team is composed of individuals assigned to the Project Manager that possess the various skills necessary to complete the development of a project from concept through final contract documents delivery.

Property Information Form (PIF) – A document submitted to the Historic Preservation Division (HPD) and the Federal Highway Administration (FHWA) which discusses the qualities and characteristics of a historic property and is used to determine whether a property not already listed in the National Register of Historic Places would qualify for listing. This document serves as the “Request for Determination of Eligibility” for historic properties.

Protective Buying – To purchase right of way in advance to protect the proposed roadway corridor of a programmed project against new development, thereby reducing future right of way and project costs.

Regional Transportation Plan (RTP) – A long range, multi-modal plan for defined geographic regions in the state. The RTP addresses the region’s transportation needs over a twenty (20) year period and is developed in cooperation with local, state and Federal planning partners and the general public. Federal regulations require regional transportation plans to ensure a transportation system that serves economic, mobility and accessibility needs, and in non-attainment areas to conform to federal air standards. A RTP must include a financial plan demonstrating the consistency of proposed transportation investments with existing and projected sources of revenue. The RTP must be updated at least every three years.

Request for Determination of Eligibility (DOE) – Refers to a document submitted to the Historic Preservation Division (HPD) of the Georgia Department of Natural Resources and the FHWA. It discusses the qualities and characteristics of a historic property or site and is used to determine whether a site not already listed in the National Register of Historic Places would qualify for listing and thus require protection under Section 4(f) and consideration under Section 106. For historic properties, a Property Information Form (PIF) satisfies the requirement for a DOE.

Responsible Person in Charge (Local Public Agency Representative) – A designated full-time LG staff employee that will serve as the point of contact for the administration and oversight of the day to day activities. This agency representative must ensure that the LAP Manual and PDP are adhered to with proper management to fulfill all obligations as agreed upon for all projects with Federal-Aid. In addition, the agency representative must ensure that the LPA has resource capacity and ability to manage, administer and execute the policies and procedures for Federal and State compliance in order to receive federal funding participation. See more details on responsible charge in Chapter 1.

Roadway Testing Technician (RTT) Certification – Certification for density testing for soils and asphalt, as certified by GDOT.

R.O.A.D.S. (Repository for Online Access to Documentation and Standards) – Refers to the centrally located, online access to GDOT design-related documents, standards, and applications. Included on the new web page: NEW GDOT Design Policy and Procedure Manuals, Electronic Data Guidelines, Plan Presentation Guide, Environmental Procedures Manual, Software specific files and documentation, etc.

Section 404 Permit – Authorization required by provisions of the Clean Water Act of 1977 before fill can be placed or dredging can take place in waters of the United States (includes wetlands, streams and open waters).

Section 404 (b)(1) Guidelines – Guidelines used to evaluate proposed discharges of dredged or fill material in waters of the United States as required by provisions of Section 404 of the Clean Water Act of 1977.

Section 4(f) – A provision of the USDOT Act of 1966 which requires that before land from a significant publicly owned park, recreation area, national wildlife refuge or any eligible historic site can be converted to a transportation use, it must be demonstrated that there is no feasible and prudent alternative to this use and that the project includes all possible planning to minimize harm.

Section 6(f) – A provision of the Land and Water Conservation Fund Act which requires that before land from a site which was purchased or improved with funds administered under this act can be converted to another use, the Secretary of the Interior must approve the conversion and replacement land must be provided.

Section 7 – A provision of the Endangered Species Act that requires the consideration of project impacts on federally threatened and endangered species and their designated critical habitat.

Section 106 – Refers to that section of the National Historic Preservation Act of 1966 which requires that with all Federal undertakings, consideration be given to the effects and the minimization of harm to historic resources (architectural and archaeological) that are listed in or eligible for listing in the National Register of Historic Places.

Specific Activity Agreement (SAA) - A binding legal agreement between the Department and the Local Government that contains current phase cost estimates and project activity deliverable schedules and may superseded PFA commitments due to real site condition changes or STIP commitment/schedule changes.

State Implementation Plan (SIP) – The SIP is prepared by the state designated agency (Environmental Protection Division [EPD] of the Department of Natural Resources) containing procedures to monitor, control, maintain and enforce compliance with National Ambient Air Quality Standards (NAAQS). Transportation plans must be in conformity with air quality goals established in the SIP. Conformity with the SIP is a condition of Federal funding of transportation capacity projects in non-attainment areas.

State Transportation Improvement Program (STIP) – The State Transportation Improvement Program includes a list of federally funded and state funded priority transportation project elements (Preliminary Engineering, Right-of-Way, or Construction) proposed to be carried out in the current and next three years (a 4 year plan). It is financially constrained (dollar value of projects programmed is equal to the anticipated revenues per program year), and includes projects consistent with the Statewide Transportation Plan. The STIP is approved by the FHWA and Federal Transit Administration (FTA) and includes all TIP projects as adopted by the Metropolitan Planning Organizations (MPO) and approved by the Governor.

Subject Matter Expert (SME) - The individual who exhibits the highest level of expertise in performing a specialized job, task, or skill within the organization; anyone with in-depth knowledge of the subject.

Time Saving Procedures – Procedures by which a project is advanced to the right-of-way authorization stage, eliminating the public hearing requirements and the approval of a location and design report. Time Saving Procedures are appropriate for those projects for which the right-of-way

requirements are not significant and a “Categorical Exclusion” is the appropriate level of environmental analysis. A statement of the appropriateness of time saving procedures will be addressed in the project Concept Report.

TPro – The project management, reporting, and scheduling system portion of the Transportation Information System (TIS) used by GDOT to effectively utilize personnel, fiscal and material resources. TPro is sometimes referred to as the “Project Management System.”

Traffic Engineering Report - A document based on a detailed evaluation and study of an ‘at-grade’ intersection based on current traffic volumes, existing lane configurations, identification of problems associated with traffic control, road geometry (turn lanes), sight distance issues, and accident data evaluation. The report will include a signal warrants analysis and concept signal design (if warranted). Existing condition sketches and figures for any proposed modifications will also be included.

Transportation Improvement Program (TIP) – The Transportation Improvement Program is a short term document covering at least 3 years. The current year plus the next 2 years in the urbanized areas of the State. It is financially constrained, conforming to the State Implementation Plan (SIP) in air quality non-attainment areas and updated at least every 2 years. The TIP includes the list of priority project elements (Preliminary Engineering [PE], Right-of-Way [R/W], and Construction) to be carried out in each program year. Projects included in the TIP must be consistent with the Transportation Plan adopted by the Metropolitan Planning Organization (MPO). The Governor approves each TIP.

Utility - All privately, publicly, or cooperatively owned water distribution and sanitary sewer facilities, and systems for producing, transmitting or distributing communication, cable television, power, electricity, light, heat, gas, oil, crude products, steam, waste and storm water not connected with highway drainage, including river gauges, fire and police signals, traffic control devices (including Intelligent Transportation Systems), and street lighting systems, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner of any above described utility or utility facility. Please note that a utility owner may include an individual owning property on both sides of a particular roadway with a water service, irrigation line or communication cable crossing the road. They may not be known to the Utilities Protection Center or utility office. Therefore, the Project Manager, right-of way appraiser and others attending the field reviews should look for this situation because the individual lines are often overlooked leading to delays on construction. Information should be forwarded to the District Utilities Engineer for coordination.

Value Engineering (VE) – Value Engineering is the systematic application of recognized techniques by an independent multi-disciplined team to identify the function of a product or service, establish a worth for that function, generate alternatives through the use of creative thinking, and provide the needed functions to accomplish the original purpose of the project, reliably, and at the lowest life-cycle cost without sacrificing safety, necessary quality, and environmental attributes of the project.”

Verification Testing – Sampling and testing performed to verify the contractors test results (i.e. asphalt mixture testing).

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## Acronyms

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**AADT** – Average Annual Daily Traffic

**AAWT** – Average Annual Weekly Traffic

**AASHTO** – American Association of State Highway and Transportation Officials  
(<http://www.transportation.org>)

**ADA** – Americans with Disabilities Act

**ADT** – Average Daily Traffic

**AHI** – Adjusted Hazard Index

**ATR** – Automated Traffic Recorder

**AWT** – Average Weekly Traffic

**C-D** – Collector-Distributor

**CDR** – Collector Distributor Road

**CFR** – Code of Federal Regulations

**CORSIM** – Corridor Simulation Software

**CWP** – (GDOT) Construction Work Program

**DBA** – Decibels, A-Scale

**DHV** – Design Hour Volume

**DPPL** – District Planning & Programming Liaison

**DTM** – Digital Terrain Model

**FAA** – Federal Aviation Administration (<http://www.faa.gov>)

**FAHP** – Federal Aid Highway Program

**FDR** – Freeway Distributor Road

**FFPR** – (GDOT) Final Field Plan Review

**FHWA** – Federal Highway Administration (<http://www.fhwa.dot.gov>)

**FRA** – Federal Railroad Administration (<http://www.fra.dot.gov/>)

**GDOT** – Georgia Department of Transportation (<http://www.dot.ga.gov>)

**GLA** – Gross Leasable Area

**GRIP** – Governor’s Road Improvement Program  
([www.dot.ga.gov/GDOT/Pages/GRIP.aspx](http://www.dot.ga.gov/GDOT/Pages/GRIP.aspx))

**GRTA** – Georgia Regional Transportation Authority (<http://www.grta.org/>)

**HCM** – Highway Capacity Manual (see **References** for additional information)

**HCS** – Highway Capacity Software

**HOV** – High Occupancy Vehicle

**IA** – Independent Assurance

**ISTEA** - Intermodal Surface Transportation Equity Act

**ITE** – Institute of Transportation Engineers (<http://www.ite.org/>)

**L/A** – Limited Access

**LPA** – Local Public Agency

**LARP** – Local Assistance Road Program

**MPO** – Metropolitan Planning Organization

**MUTCD** – Manual on Uniform Traffic Control Devices (FHWA)

**NHS** – National Highway System

**OCGA** – Official Code of Georgia (<http://www.lexisnexis.com/hottopics/gacode/default.asp>)

**OES** – (GDOT) Office of Environmental Services

**OMAT** – GDOT’s Office of Materials and Testing

**PDP** – (GDOT) Plan Development Process

**PE** – Preliminary Engineering

**PFPR** – Preliminary Field Plan Review

**PHV** – Peak Hour Volume

**PM** – Preventive Maintenance

**PNRC** – Project Nomination Review Committee

**QPL** – (GDOT) Qualified Products List

**RCInfo** – Roadway Characteristics Information

**RDG** – (AASHTO) Roadside Design Guide

([https://bookstore.transportation.org/collection\\_detail.aspx?ID=105](https://bookstore.transportation.org/collection_detail.aspx?ID=105))

**ROW** – Right-of-Way

**RTT** – Roadway Testing Technician as certified by GDOT

**RTV** – Right Turn Volume

**SME** - Subject Matter Expert

**SPUI** – Single Point Urban Interchange

**SRTA** – State Road and Tollway Authority

**STI** – GDOT Sampling, Testing and Inspection Manual which is located on the GDOT website under “The Source”.

**STIP** – State Transportation Improvement Plan

**SUE** – Overhead/Subsurface Utility Engineering

**SWTP** – Statewide Transportation Plan (<https://www.dot.ga.gov/GDOT/pages/SSTP.aspx>)

**TAP** – Transportation Alternative Program

**TIP** – Transportation Improvement Program

**POLICY AND PROCEDURE** – [Transportation Online Policy and Procedure System](#)

**UAM** – (GDOT) Utility Accommodation Policy and Standards Manual.

[http://www.dot.ga.gov/PartnerSmart/utilities/Documents/2016\\_UAM.pdf](http://www.dot.ga.gov/PartnerSmart/utilities/Documents/2016_UAM.pdf)

**VT** – Verification Testing





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## Chapter 1. Overview of Local Administered Projects

### 1.1 FHWA-GDOT Role for a Local Government Administered Project

The Georgia Department of Transportation (GDOT) assumes the responsibilities of the U.S. Secretary of Transportation for all projects not on the National Highway System for design, plans, specifications, estimates, contract awards, and inspection of projects. Title 23 U.S.C. does not recognize local entities as direct recipients of Federal funds and GDOT is not relieved of these responsibilities by authorizing performance of work by a Local Government (LG). A LG, viewed in Federal regulations as a sub-recipient of Federal funds, must be determined by GDOT to have adequate delivery systems for the project and sufficient accounting controls to properly manage Federal funds. If the LG elects to use a consultant to meet its Federal-aid project responsibilities, the LG will still be responsible to provide a full-time public employee to be in responsible charge. The LG shall also provide an alternate full-time responsible charge. The LG staff employee will serve as the point of contact for the administration and oversight of the day to day activities.

The regulation is silent about engineering credentials. Thus, the person in "responsible charge" of LPA administered projects need not be an engineer. This requirement applies even when consultants are providing construction engineering services. Regardless of whether the project is administered by the State Transportation Agency (STA) or another agency, the person designated as being in "responsible charge" is expected to be a public employee who is accountable for a project.

The responsible charge shall be expected to be able to perform the following duties and functions:

- Administers inherently governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
- Maintains familiarity of day to day project operations, including project safety issues;
- Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visits and reviews the project on a frequency that is commensurate with the magnitude and complexity of the project;
- Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse; and
- Directs project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation.
- Is aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The regulations do not restrict an agency's organizational authority over the person designated in "responsible charge," and the regulations do not preclude sharing of these duties and functions among a number of public agency employees. The regulations also do not preclude one employee from having responsible charge of several projects and directing project managers assigned to specific projects.

**Note: In general, this GDOT Local Administered Project Manual applies to all Federal-aid projects, however, projects funded by Transportation Enhancement, Scenic Byways,**

**Congestion Mitigation and Air Quality Improvement Program and Safe Route to Schools Programs do not require the LG to be LAP Certified.** These projects are administered in accordance with the GDOT requirements are exempt with its own manuals and other guidance for federal compliance.

The GDOT Offices should be contacted early regarding Federal requirements related to the projects listed below.

Program Owner	GDOT Contact
Transportation Enhancements (TE Projects)	Office of Program Delivery
Scenic Byways	Office of Planning
Safe Routes to School (SRTS)	Office of Traffic Operations
Congestion Mitigation and Air Quality (CMAQ)	Office of Planning
Off-System Lump Sum Safety Projects	Office of Local Grants
High Risk Rural Roads Lump Sum Safety Projects	Office of Traffic Operations
Railroad projects (Force Accounts)	Office of Utilities
Lighting Projects	Office of Design Policy & Support

Note: TE projects and SRTS have been phased out. All federal funds require a LAP certification. HB 170 and state funds do not require a local to be LAP certified.

## 1.2 Project Initiation

A project is identified through planning studies conducted by the GDOT Office of Planning for rural areas and the Metropolitan Planning Organizations (MPO) for the urban areas of the state. Population greater than 50,000 must be managed through MPOs which there are currently sixteen (16) MPOs in the state of Georgia. The Office of Planning or MPO manages the development of planning studies for new capital projects and the public information process. Planning studies can range from development of need and purpose statements to specific project implementation plans. All of these project planning activities rely on input from citizens and their elected officials, and must be in agreement with the goals and objectives of municipal, county and regional governments. The Office of Planning manages the State Transportation Improvement Program (STIP). The STIP is a multi-year capital improvement program which contains information on all programmed projects, including projects located outside MPO boundaries, receiving Federal funds in the state of Georgia. Project schedules for plan development, funds authorization, and lettings must conform to the phase, estimates and program funding as included in the federally approved STIP. MPOs develop their own Transportation Improvement Program (TIP), approved by the governor, which is included into the STIP.

More information on the STIP and a list of current fiscally constrained projects can be found on the <https://www.dot.ga.gov/GDOT/Pages/STIP.aspx>.

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### 1.3 Local Government Prequalification

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In order to administer a project, GDOT requires certified LGs to possess adequate organizational structure, experienced employees, and processes for project development that promotes on time project delivery. These considerations apply to more than just the specific disciplines associated with design and construction, but also general aspects of stewardship related to public business practices, right of way, fiscal accountability, and other applicable responsibilities associated with State and Federal funding.

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### 1.4 GDOT and Local Government Project Agreements

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There are several agreements that the LG will receive and need to execute during project development and construction. If not currently certified by GDOT, the LG must first complete the requirements for GDOT LAP Certification. For each project added to the Program, the LG may receive the following:

1. Letter of Notification Agreement from Office of Planning
2. Project Framework Agreement (PFA) will only be needed when Preliminary Engineering (PE) costs will be reimbursed due to federal funds being assigned to the PE phase. The PFA will be submitted to the LG for execution prior to the start of major plan development activities.
3. In-Lieu of Letter is provided when local sponsor is paying 100% of Preliminary Engineering costs
4. Memorandum of Understanding (MOU) is provided when project management oversight funds are required
5. Local Let Approval Form (LLAF) is to capture the LG justification of locally letting a project
6. Specific Activity Agreement (SAA) which addresses project specific activities such as:
  - a. Right-of-way
  - b. Utility
  - c. Construction
  - d. Lighting
  - e. Landscaping
  - f. Maintenance/Operations

These agreements detail the LG commitment to more accurate cost and phase delivery schedules. Other special requirements are included, and the responsibilities of each affected office are identified in this policy. These agreements allow projects to be managed and tracked more effectively while maximizing LG oversight and keeping project deliverables on schedule. Early in project development, it is the LG responsibility to coordinate with the GDOT Project Manager on which agreements and/or forms are required.

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### 1.5 Consultants

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The LG may engage a consultant to perform architectural, engineering, environmental, right-of-way, and related services needed to develop and deliver a Federal-aid project if the LG provides a full time responsible charge, who will serve among various duties as the liaison between the consultant and the GDOT Project Manager. Every LG selected consultant must be pre-qualified by GDOT.

If there is Federal-Aid Highway Program (FAHP) funding participating in an engineering and design related services contract, then the Federal competitive negotiation/qualifications-based selection (Brooks Act) procurement procedures is applicable and must be conducted in accordance with the guidelines established in 23 C.F.R. Part 172 as agreed upon in Attachment “G” found in the PFA.

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## 1.6 Plan Development Process

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The Plan Development Process (PDP) commences with the authorization of Preliminary Engineering Funds, continues through Right of Way Acquisition (if applicable) and ends when the construction funds are authorized.

The first phase is to develop the concept and conduct the special studies to identify environmental resources, especially the location of protected waters and species, cemeteries, and determine the National Register eligibility of historic resources and archeological sites. The objective of the concept studies is to determine an alignment that meets the need and purpose identified in the planning studies; minimize adverse impacts to environmental resources; minimize the costs for the project; identify the stakeholders and the scope of public involvement, and produce a Concept Report. All environmental work shall be done in accordance with the GDOT Environmental Procedures Manual which is located at:

<https://www.dot.ga.gov/GDOT/pages/EnvironmentalProcedures.aspx>

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## 1.7 Preliminary Design

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Preliminary Plans development begins after the approval of the Concept Report and continues up to the point of beginning the final right-of-way plans. Coordination with state and Federal environmental resource agencies continue so that commitments and mitigation to protect the significant environmental resources become known. The appropriate environmental studies and documents are developed and approved. The proposed design is developed and will address all of the elements of the project area such as the existing transportation facilities, developed property, utilities, and drainage. The objectives of this phase are to determine the fullest extent of the right of way to be needed and to gain approval of the environmental reports and documents prior to beginning any right of way phase or final design activities. A preliminary field plan review (PFPR), determines the constructability of the project within the right-of-way and easements established for the project cleared through the environmental document. Upon approval of all environmental documents by GDOT and FHWA, the project is cleared for the GDOT Project Manager to request right of way Federal funding to be authorized and upon FHWA right of way phase authorization all right of way phase activities may begin by the LG.

*Note: Violation of any of the requirements may jeopardize all or part of the project's eligibility for Federal funding. In addition, no project will be advertised for bids, nor will any project right of way or construction work be undertaken, and no materials will be purchased on any Federal-aid project prior to Federal-aid funding authorization approval from GDOT and FHWA. Violation of this requirement will result in the project being ineligible for Federal funding and the LG liable for the total cost of accrued project expenditures to that point.*

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## 1.8 Final Design

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Chapter 7 of the PDP manual details the Final Design activities. LG final design cannot proceed prior to environmental approval by GDOT and FHWA. Note that, if any changes are made to the project footprint during the final design phase, the environmental impacts must be reevaluated immediately at the time of the change. Approval of the construction funding and the letting will be delayed until such time the environmental reevaluation is approved by GDOT and FHWA. Environmental permits and associated mitigation also must be obtained prior to let.

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## 1.9 Local Government Right of Way Acquisition

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If Federal funds are involved in any phase of a project, compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is required. The GDOT Acquisition Guide for Local Public Agencies and Sponsors manual provides the right of way acquisition process. A right of way certification letter of compliance is required from the LG with the plans, specifications, and estimates (PS&E) submittal package to the GDOT Project Manager.

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## 1.10 Utilities & Railroads

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The LG must perform utility relocation activities in compliance with 23 CFR Part 645; Title 32, Official Code of Georgia Annotated; and, the GDOT Utility Accommodation Policy and Standards Manual, current edition. The LG provides certification that all utility facilities have been appropriately relocated or conflicts resolved so as not to interfere with construction activities. A reimbursable cost utility agreement with each utility owner that is reimbursable for their relocation work is required. If utility relocations are reimbursable, a GDOT Utilities Certification Letter and a copy of the reimbursement agreement, which will include Buy America Language, must be submitted to the appropriate GDOT District Utility Office.

Early railroad coordination is essential for any railroad inside or within 500 feet of the project limits. Involvement requires the LG to submit preliminary and final plans to the railroad for their approval and to obtain a railroad agreement that includes the Buy America Language, if applicable, with each owner. After railroad coordination is completed by the LG, a copy of the final plan approval letter from the railroad will be sent to the State Utility Office Railroad Liaison Engineer at the GDOT General Office location.

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## 1.11 Construction and Letting by GDOT

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The LG shall submit all plans and information to the Department following the PDP, Chapter 8 for letting of the project. GDOT has the policies, administrative programs, personnel and equipment in place to administer construction of the Federal-Aid Highway Program and by default will let all Federal-Aid projects except those noted specifically below.

Projects which may be let by Local Governments include:

- Transportation Enhancements
- Off-System Lump Sum Safety projects
- High Risk Rural Roads Lump Sum Safety Projects
- Lighting projects

Any projects that do not meet these criteria shall require prior approval by the Department's Director of Construction and Chief Engineer to be let by the LG. This approval must be requested through the Project Manager. The Local Government must also be LAP Certified before requesting approval to let any projects not noted in the list above.

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### **1.12 Lettings, Bid Review and Awards By Local Governments**

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Project types which are noted in Section 1.11 or other projects specifically approved by the Director of Construction and the Chief Engineer may be let by the LG. Lettings by the LG require the prior authorization of Federal construction funds. Construction funding authorization requires the LG to provide the Project Manager with all the information listed in Section 10.2. All utility and/or railroad agreements must be executed or resolved before proceeding with request for construction authorization.

The LG will provide the GDOT Project Manager with a copy of its contract proposal and provisions for review and approval. Once FHWA has authorized the construction funds the Project Manager will issue a Notice to Proceed (NTP) to the LG to advertise the project for bid.

The LG must comply with local, state, and Federal laws and regulations during this phase of the project administration. Key references that the LG should use to assure compliance with Letting, Bid Review, and Award procedures can be found on the LAP web page.

Any LG that proceeds ahead with any task or procedure without first securing GDOT and FHWA construction phase authorization may result in the loss of eligibility for Federal funds. Upon the determination of Federal funding ineligibility by FHWA, the LG is liable for repayment of all accrued Federal share project cost.

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### **1.13 Construction**

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During construction of a Local Let project, the LG must ensure that adequate inspections are made to determine that the construction is in accordance with the contract plans and specifications, that materials meet the project specifications and that personnel that are performing the testing are certified by GDOT, that Federally required records are maintained and retained to support the eligibility for and the reimbursement of Federal funds, and that progress reports are accurate for all construction activities. The LG will be subject to a GDOT Construction/Engineering Audit prior to or shortly after the Notice to Proceed. The GDOT Project Manager shall make notification and arrangements for the preliminary review. All project construction actions are subject to audit reviews by GDOT and FHWA staff in order to verify all commitments and mitigation requirements identified in the approved environmental documents were carried out, as well, as compliance with other Federal and state laws such as Disadvantaged Business Enterprise (DBE) and Equal Employment Opportunity (EEO).

GDOT staff must approve Supplemental Agreements, also known as Contract Modifications, and time extensions even if there are no State or Federal funds needed in the Contract Modifications .

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### **1.14 Project Completion and Maintenance**

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Activities associated with the closure of a project include

- Closing Conference to be conducted 60 days prior to completion date
- A notice of completion by the contractor
- Final inspection is conducted when all pay items are complete
- A review of the eligibility of project costs for Federal reimbursement,
- Making a determination of Final Acceptance from the LG,
- Maintaining the project after completion and meeting required retention disposition of project records. The LG is required to maintain the project according to Section 116 Title 23 U.S.C.





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## Chapter 2. FHWA and GDOT Responsibilities

### 2.1 FHWA - Title 23 of the United States Code (USC)

The Federal Highway Administration's (FHWA's) responsibility for administering the Federal-aid Highway Program, under Title 23, USC, is outlined in the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 with several other legislative transportation acts that all culminate in the Bipartisan Infrastructure Law (BIL), signed November 15, 2021. These laws establish the respective roles and responsibilities of the GDOT and the FHWA in providing stewardship of Federal-aid Highway Program activities under Title 23 and other associated laws. FHWA retains overall responsibility for all aspects of their Federal-aid programs and this understanding does not preclude FHWA's access to and review of Federal-aid projects at any time and does not replace any provisions of Title 23, USC.

### 2.2 FHWA Role in the LG Administered Project Process

The FHWA Georgia Division oversight of local administered projects will be conducted by the FHWA Georgia Division's Transportation Engineer for each District. The FHWA Georgia Division will also have an individual with local administered project collateral duties to oversee the program aspects.

### 2.3 The Georgia Code of Public Transportation and GDOT

The Georgia Code of Public Transportation, Official Code of Georgia, Title 32, created the GDOT and defines its powers and responsibilities. Paragraph 32-2-2 (a) (7) more specifically describes GDOT's authority to accept Federal Aid.

Procedures to meet the Title 23 Policies and Objectives are addressed in the State Code, directives or manuals.

When a Local Government (LG) notifies GDOT of its intent to become the implementing agency of a construction project in which GDOT participates through oversight of Federal funds, the GDOT, on behalf of FHWA, will determine a LG's qualifications for compliance with all requirements of Federal and State laws and regulations before proceeding with obligating Federal funds. Title 23 U.S.C. does not recognize local entities as direct recipients of Federal funds therefore GDOT is not relieved of any Federal oversight responsibilities by granting work to be completed by a LG. GDOT must determine sub-recipients to have adequate program delivery and sufficient accounting controls to properly manage Federal funds.

### 2.4 Local Government Certification Acceptance

The GDOT LAP Program Manager, with the assistance of the Local Administered Project Certification Committee (LAPCC), will be responsible for evaluating the LG submittal of a Local Administered Project (LAP) Certification Application.

The LAP application process consists of the following activities, but not limited to:

- The GDOT District Planning Programming Liaison (DPPL) will conduct an interview with the LG representatives (All five (5) training courses (LAP, PDP, Right-of-Way (ROW) Acquisition

for Local Public Agencies, Title VI, and Engineering and Design Procurement) must be completed prior to submitting application to DPPL. See Chapter 3 for more details). The interview between the LG and DPPL covers the application items and required documents. Any questions regarding the required documents, the Local shall coordinate with their DPPL.

- As a result of the interview, the DPPL will make a recommendation for LG to move forward in the LAP Application process and recommend LAP status (Certification Acceptance, Non-CA Option 1/Option 2, or denied acceptance).
- The GDOT DPPL will submit the application to the LAP Program Manager for review.
- After review of the application is complete, the LAP Program Manager will submit to other GDOT subject matter experts/LAPCC to evaluate the LG qualifications and past experience, if applicable, with administering Federal funded projects. The LAPCC will either approve or deny the local agency's LAP Certification Application.
  - For LG's that have limited experience in managing a Federal funded project, the GDOT DPPL may recommend certification with direct GDOT supervision with all project approvals being the responsibility of the LG Project Manager.
  - For LGs that have past local let experience with administering Federal funded projects with demonstrated technical expertise necessary for the review and approval of various phases or functional areas associated with project development certifying that they are in conformance with applicable State and Federal laws, the GDOT DPPL will provide this information as a part of the recommendations for those areas permitted for review and approval for LG Certification.
  - LG qualifications include part or all of the following that will be used to determine the level of local let supervision by the GDOT DPPL:
    1. LG has a full-time and an alternate public employees to be in responsible charge for the Federal project and not a consultant.
    2. LG is equipped to undertake work.
    3. LG is capable to satisfactorily complete the work.
    4. LG has Federal project experience.
    5. LG has design and construction disciplines or intends to acquire GDOT prequalified design or right of way consultants to provide those disciplines.
    6. LG has the capability to undertake environmental studies or intends to acquire a GDOT prequalified consultant.
    7. LG has proven or can expect to prove Federal-aid fiscal accountability and stewardship.
- A letter from the LAP Program Manager will be sent to the LG if the LAP Certification or Recertification Application is approved. A LG denied certification will be provided in writing outlining the reasons for that action from the Program Control Administrator. A LG may reapply for certification after addressing deficiencies stated in the denial letter. The LAP Program Manager and/or DPPL will periodically conduct audits of the certified LPA to confirm qualifications have not changed.
- After certification approval, Quality Assurance Reviews will be conducted by FHWA, DPPLs, GDOTs PMs, LAP Program Manager, and various offices within GDOT annually for a selected number of projects to determine the LGs reviewed met or failed to meet GDOT LAP Manual requirements. A LG may lose its certification if reorganization of the government agency

occurs or problems are discovered during GDOT or FHWA inspections, audits, or project close out review. If any reorganization of the government agency occurs from previously approved documentation, the LG must notify GDOT by submitting a LAP Compliance Plan within 30 days of any such changes. Failure to do so may jeopardize certification status.

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## 2.5 GDOT Retains Approval Authority for Specific Project Activities

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The GDOT retains approval authority for the following LG administered project activities.

1. NEPA documents
2. Environmental technical studies
3. Design standards and design exceptions
4. Environmental Certification
5. Engineering plans
6. Right of Way Certification
7. Utility Certification
8. Sole Source Justification Approval coordinated with FHWA
9. DBE Goals
10. Owner Force Account work
11. Rejection of bids
12. Labor compliance enforcement
13. Project cost eligibility
14. Contract modifications
15. Federal-aid accrued progress payments and final payment
16. Materials Certificate
17. Project final inspection and final acceptance

FHWA may retain approval authority of certain items in accordance with the Stewardship and Oversight Agreement.

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## 2.6 GDOT Reimbursement for Direct Project Costs

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The LG administered projects are a significant annual portion of the Federal-aid program for which FHWA and GDOT are responsible. GDOT must assure that each sub-recipient will meet the requirement for delivering the project and have an accounting control process capable to manage Federal funds. GDOT Project Manager and other GDOT staff will incur considerable cost related to local administered projects. For PE oversight funding, please refer to Attachment "C" titled "Preliminary Engineering (PE) Oversight Funding Structure for Non-GDOT Sponsored Projects (Guidance for MPO's, TMA's, Project Managers and Project Delivery Staff)" in the Project Framework Agreement. For each Federal-aid project, the LG will be responsible for providing all local (non-Federal) matching funds. As part of all Federal-aid projects, the GDOT staff directly bills their payroll and other eligible expenses to Federal-aid participation. It is the responsibility of the LG to provide local matching funds to GDOT for authorizing the usual and customary engineering funds for GDOT direct project engineering and supervisory activities. These funds are required for direct project GDOT engineering or supervisory cost seeking Federal reimbursements, since property and other services containing non-monetary matching values may not be used. Preliminary engineering, construction

engineering and construction supervision activities by GDOT staff generally cost between 5% and 10% of the total project cost. This local matching fund participation for GDOT engineering service is required regardless if other phase activities on the same project are to use a non-monetary match value.

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## Chapter 3. Local Government Certification

### 3.1 Overview

The Georgia Department of Transportation (GDOT) receives a delegated authority to approve certain types of projects for development and construction administration from the FHWA. The Local Administered Project (LAP) process allows GDOT to delegate authority to qualified Local Public Agencies (LPA). The LAP manual only provides guidance to help LGs administer federal-aid projects. For additional information and guidance regarding the LAP program, visit the [GDOT LAP external webpage](#). A LG must submit a LAP Certification or Re-Certification Application for review and approval by GDOT in order to receive delegated authority for project oversight. Within the LAP Certification Application, the LG is responsible for citing the qualifications and capabilities it possesses. If needed, the LG may request GDOT Project Manager supervision in specific phases of preconstruction and construction. LG may request a GDOT Project Manager to provide direct supervision to administer on a project by project basis. This must be reviewed and approved by GDOT.

The LAP certification is beneficial for the LG to administer a project successfully. The certification allows the LG to create time savings related to their authority to develop, advertise, award and manage the project. This time savings does not diminish the LG's responsibility to provide professional engineering and other resources necessary to ensure all State and Federal requirements are followed. The LG will be certified for a period of three (3) years or until either party modifies or rescinds the agreement. By agreeing to accept Federal-aid funds, the LG assumes the stewardship roles and responsibilities with respect to properly carrying out the Federal-aid project process.

When a LG is administering a project, GDOT limits its role as defined in the LAP Certification Agreement. The GDOT Local Administered Project Certification Committee (LAPCC) will review, confirm, and approve the LG to develop the federal project for which its certification applies as defined by the GDOT LAP Manual procedures. LG's are encouraged to take full advantage of GDOT's assistance, supervision and training related to local let project responsibilities.

Although the certified LG can be pre-qualified to conduct local environmental and right-of-way activities, Federal regulations specifically require GDOT to retain approval for environmental documents, utility, and right-of-way certifications. Additionally, GDOT and FHWA retain the approval authority or oversight responsibility for planning requirements, funding authorization, NEPA determination and documentation, Plans, Specifications, and Estimates (PS&E), final inspection, final acceptance, EEO and DBE requirements.

### 3.2 Project Framework Agreement

A Project Framework Agreement (PFA) is an agreement between the Department and the Local Public Agency that outlines the responsibilities, commitments, terms and conditions on how the specific project will comply with Federal and State regulations in administering and delivering the project with a funding participation distribution for all phases by each agency. The PFA breaks down the funding participation for all phases by each agency. The PFA provides guidance to



applicable standards and policies. This agreement is only executed between GDOT and the LG when funds are reimbursable for preconstruction activities and phases.

A local government, which has not been LAP certified to administer federal-aid projects, is ineligible to enter into a PFA with GDOT for administration of federal funded projects.

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### **3.3 Local Administered Project (LAP) Certification for Local Governments**

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Projects must be administered in accordance with the GDOT LAP Manual. The LG will designate a public employee who is the full-time responsible charge and provide an alternate full-time public employee.

The GDOT District Planning & Programming Liaison (DPPL) LAP Program Manager, and LAPCC will evaluate whether the LG has adequate staff or consultant expertise capable to deliver and supervise the design, environmental, PS&E, and construction administration phases of the project or the LG will request GDOT to directly supervise these functions as part of its LAP Certification Application.

The LG will designate a full-time responsible charge public employee to have approving authority for all GDOT delegated project approvals unless it determines the GDOT Project Manager direct supervision is required. The responsible charge is responsible for the approval of each project phase for which it is the approving authority, and the name and position must be identified in the GDOT LAP Certification or Re-Certification Application.

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### **3.4 LAP Certification Status Types**

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#### **Certification Acceptance (CA) Status (Full LPA Administration)**

A Local Agency that is certified to administer federal-aid projects may develop and accomplish the following:

- A. Location and Design
- B. Utility Agreements
- C. Railroad Agreements
- D. Consultant Engineering Agreements
- E. Environmental Documentation
- F. Bid Reviews
- G. Advertisement and Award of Construction contracts
- H. Construction Administration
- I. Construction Material Testing

#### **Non-CA Status (Limited LPA Administration)**

If a LG does not have Certification Acceptance status, the following two options are available for administration of a FHWA funded project:

##### **Non-CA Status Option 1**

A LG that is not LAP certified (Non-CA Status) enters into an Agreement with a CA status LG to administer all aspects of the project. There must also be a jurisdictional relationship (contiguous)

between the 2 entities. For example, a city that does not have a CA status will enter into an agreement and coordinate with the county that is LAP certified. This requires approval by the GDOT.

### **Non-CA Status Option 2**

The GDOT Project Manager administers the project for the LG in coordination with other GDOT departments, and the LAPCC, approves a LG to perform specific aspects of a project. An approved plan for the administration of the project is executed between GDOT and the LG through a PFA. This category allows projects of smaller sizes to be performed in part by the LG. The project plan shall address such issues as:

- Financing approvals — accounting/billing capabilities
- Consultant involvement and monitoring - LG must obtain the approval of the GDOT Project Manager prior to selection of a consultant
- Development of Design and Design Documentation
- Development of plans, specifications, and estimates
- Approval of contract documents
- Advertising, award, and execution of a contract
- Contract oversight and documentation
- Contract Modification Approval (in the form of Supplemental Agreements/Change Orders)
- Material Approval

**Note:** Non-CA Option 2 must be reviewed and approved by GDOT.

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### **3.5 Submitting GDOT LAP Certification or Re-Certification Applications**

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All five (5) training courses (LAP, PDP, Right-of-Way (ROW) Acquisition for Local Public Agencies, Title VI/ADA, and Engineering and Design Procurement) and other documentation must be completed before an interview can be conducted with the DPPL to review the LG's LAP Certification or Re-Certification Application. The DPPL will coordinate with the LG to set up the LAP Application interview.

The DPPL will review and evaluate the LAP Certification or Re-Certification application and make a recommendation to the LAPCC. The LG should coordinate with their DPPL on the appropriate documentation required for the application. The required documentation, to include but not limited to, is the following:

1. A letter addressing the LG capabilities, staff and experience in the specific areas where certification is requested in design, right-of-way, estimates, construction, bid and award, environmental, consultant selection, and ability to match federal funds.
2. Current Organizational Chart

- The organization chart shall identify by name and title/position non-consultant staff that will participate in the LAP Certification or Re-certification process. **Note:** Consultants are not LAP certified only the LG can be LAP certified. When supporting the LG's LAP Program, consultants are encouraged to take the training classes.
  - Multiple LG employees can complete the current required training classes, but at a minimum the LG full-time responsible charge and an alternate must complete and pass the LAP and PDP training classes.
  - The LG must notify the GDOT LAP Program Manager within 30 days of any position changes of non-consultant staff that participate in the LAP Certification or Re-Certification process and include a [LAP Compliance Plan](#). The compliance plan should identify and address any deficiencies or gaps (training or documentation) in LAP certification compliance. Failure to comply may jeopardize the LG's certification status.
  - Employees of one LPA that move to a job at another LPA may receive a new certificate if expiration date has not passed. Otherwise, the employees must attend training class and a new certificate will be issued.
3. Copy of the training certificates for the five required training courses
  4. Current Title VI Assurances and [Non-Discrimination Agreement \(NDA\)](#) if census population is less than 100,000 or Title VI Plan if census population is greater than 100,000
  5. Procurement – Current written policies and procedures which will be used to procure engineering and design related services using federal-aid funds, which are in accordance with § 23 C.F.R. Part 172.5(b)(1) and the Brooks Act. The LG also has the option to adopt GDOT's Procurement Policy by signing the [Template Letter of Agreement](#).

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### 3.6 Application Review Process

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The DPPL will meet and interview each LG submitting a GDOT LAP Certification or Re-Certification Application to gather and confirm the abilities of the LG to administer Federal-aid projects. The DPPL will collaborate further with GDOT District and General Office units, as needed, to fully evaluate applicant's qualifications and ability to deliver locally let projects.

All history of project delivery and performance by the LG will be considered; both current and expected staffing expertise; experience with Federal and State requirements; and overall capability will be considered in recommending the Certification Acceptance to the LAPCC.

After the interview process, the DPPL will submit the LG evaluation of the LAP Certification or Re-Certification Application to the LAP Program Manager with a recommendation for:

- A. Certification Acceptance
- B. Non-CA Status Option 1
- C. Non-CA Status Option 2
- D. Deny the LAP Certification or Re-Certification with deficiencies noted

The LAP Program Manager and the LAPCC will review the evaluation and recommendation from the DPPL and note any deficiencies for amendment by the LG. Upon final review by the LAPCC, the LAP Program Manager will either approve or deny the local agency's LAP Certification or Re-Certification Application.

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### **3.7 GDOT LAP Certification Committee (LAPCC)**

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The LAP Certification Committee is composed of several GDOT subject matter experts from various GDOT units that will review, confirm and approve or disapprove the LG to develop the federal projects for which its certification applies using the GDOT LAP Manual procedures. This committee coordinates with the LAP Program Manager to ensure that all appropriate documentation is provided as required by the LAP Certification or Re-Certification application.

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### **3.8 GDOT Notification of LAP Certification or Re-Certification Approval or Disapproval**

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The LAP Program Manager will notify the LG if the LAP Certification or Re-Certification Application is approved or disapproved with deficiencies. A LG may reopen the application process by providing written notice of the corrections of the deficiencies as provided in its email and/or letter of denial. The GDOT DPPL will follow the same process as in the original application and will focus on those deficient areas as noted by the LAPCC that the LG has completed all corrective actions.

LG's who fail to meet LAP certification will not be allowed to let or administer federally funded projects.

Found on the GDOT LAP webpage, is a list of the current [Certified Local Public Agencies](#). This list is updated periodically when changes are needed.

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### **3.9 Maintaining Certification Acceptance (CA)**

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The GDOT Project Manager will consult and advise the LAP Certified LG concerning the PDP procedures to be followed. The level of this assistance will depend on the nature of each project and the demonstrated capabilities of the LG. GDOT will perform reviews and/or audits on LAP projects to ensure that local agencies are administering FHWA funds in accordance with the LAP Manual.

These audits include but are not limited to:

- GDOT LAP Audits conducted by the Office of Program Control and DPPLs to review LAP Certification Requirements, Preconstruction and Construction phases
- GDOT Federal Compliance Checklist at various milestones conducted by the Office of Program Delivery's Project Managers: Concept Report Approval, Preliminary Field Plan Review, Final Field Plan Review and Construction Award.

The LG may lose CA status and have its delegation of authority reduced to a phase of a project, or be placed on probationary CA. This may be the result of, but not limited to:

- Non-compliant in any phase or aspect of LAP certification process
- Failure to correct deficiencies on audit reports

- The qualifications and experience of the LG staff are altered. If any change occurs in the positions described in the CA Agreement as “Approving Authority” the LAP Program Manager and the GDOT Project Manager shall be notified within 30 days with a LAP Compliance Plan. This includes providing updated organization chart, training plan, updated training certificates and any pertinent information to remain in compliance. The loss of CA status and reinstatement conditions will be outlined in an email and/or letter from the Program Control Administrator to the local government .

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### 3.10 LAP Certification – Exceptions and Non-Exceptions

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#### Exceptions

Projects such as Transportation Enhancement (TE), Scenic Byways, Congestion Mitigation and Air Quality Improvement (CMAQ) and Safe Routes to School (SRTS) programs are exempt and do not require LAP Certification. These types of projects have established policies and procedures that meet the terms and conditions needed to administer projects in accordance with other requirements, guidance and manuals for federal compliance. (Chapter 1.1)

Note: TE Projects will be phased out.

#### Non-Exceptions

For the Transportation Alternatives Program (TAP), Georgia DOT partners with the FHWA in facilitating and providing an opportunity for local governments to pursue non-traditional transportation related activities such as pedestrian facilities, bicycle facilities, and pedestrian streetscaping projects. TAP builds upon the legacy of the TE program by expanding travel choices, strengthening the local economy, improving the quality of life, and protecting the environment. The most recent Transportation Funding Act, Fixing America’s Surface Transportation (FAST) Act, continues funding TAP through 2020. TAP projects will require LAP Certification to participate in administering federal-aid for non-traditional transportation related activities.

For further details on the TAP Program, visit the [TAP webpage](#) for the most recent call for projects and requirements.

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### 3.11 Training for Local Government Staff and Consultants

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The LG staff and consultants are to contact the GDOT DPPL or LAP Program Manager for information on availability of classes related to Local Administered Projects. Please refer to LAP [training schedule](#) for upcoming classes.

The following courses will be required every 3 years for LAP certification and re-certification:

- Project Development Process (PDP) Training
- Local Administered Projects (LAP) Training
- Right-of-Way Acquisition for Local Public Agencies (LPAs) Training
- Title VI/ADA Training
- Engineering and Design Procurement Training

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### 3.12 GDOT LAP Quality Assurance Review

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The GDOT Project Manager will provide project management guidance to all certified local governments. GDOT will conduct LAP Audit Compliance reviews annually to ensure Quality Assurance (QA) for a select number of projects in each district. This LAP Audit Compliance will evaluate project performance and compliance to document and report project audit findings. A LG may lose its certification status based upon the LAP Audit Compliance findings or during other GDOT and FHWA inspections, audits or project close out review.

If it is determined that the LG did not comply with State or Federal requirements, then the LG will be notified of their federal-aid ineligibility. **FAILURE TO COMPLY** may require repayment for all or a portion of Federal funds.

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## Chapter 4. Civil Rights

### 4.1 Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 and other Federal Nondiscrimination statutes prohibit discrimination based on race, color, national origin and sex (gender) in the provision of benefits and services in programs and activities receiving Federal funds. The U.S. Department of Transportation's (USDOT) implementing regulations are contained in 49 CFR Part 21 and 23 CFR 200. These regulations require: Recipients to execute Title VI Assurances as a condition of Federal aid. These Federal regulations require GDOT to ensure that all local agencies receiving USDOT funds administered by GDOT are in compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, Executive Order 12250, Executive Order 12898, Executive Order 13166, 49 CFR Part 21, 23 CFR Part 200.

The Federal Highway Administration requires each Local Government that receives Federal funds through GDOT to establish a Title VI Program to prevent discrimination in the provision of benefits and services on federally funded transportation programs and activities. This Title VI Program is a system of policies and procedures designed to monitor agency (and sub-recipient agency) compliance, address complaints, and eliminate discrimination when found to exist.

A LG serving a population of 100,000 or more is required to have a Title VI Plan (as provided by the Civil Rights Act of 1964). A local government serving a population less than 100,000 may use an abbreviated Title VI Plan, a Nondiscrimination Agreement. The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of the terms "programs and activities" to include all programs and activities of Federal aid recipients, sub-recipients, and contractors, whether such programs and activities are federally funded or not.

The policies and procedures to address nondiscrimination must be included in the LG Title VI Plan. Their plan for implementing Title VI must be presented to the GDOT Equal Employment Opportunity (EEO) for review and approval. A copy of the GDOT Nondiscrimination Agreement with assurances are available on the LAP webpage. Contact information for the GDOT EEO Office and District Offices is found at the GDOT EEO webpage.

### 4.2 Title VI Plan Development

A Title VI Plan is a legal document that imposes individual legal liabilities to the signatory agency that are nontransferable. Each LG must develop a Title VI compliance document that reflects its individual Federal-aid transportation program structure. The GDOT EEO will provide each LG the technical support it needs to develop a Title VI Plan or a Title VI Nondiscrimination Agreement for agencies with populations of less than 100,000. It is the LG responsibility to coordinate with the EEO for content and format of the Title VI Plan. The Title VI Plan will describe how recipients of Federal financial assistance will implement their Title VI Program.

### 4.3 Title VI Standard Assurances

The DOT Order 1050.2 and 23 CFR 200.9(b) (3) requires Standard Title VI Assurances to be included by reference in every contract, grant or property regardless of its funding source. The

agency's CEO signs these assurances. GDOT EEO will provide the local agency with Title VI reporting requirements to GDOT.

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#### **4.4 Annual Title VI Update and Accomplishment Report**

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All agencies with approved Title VI Plans or Nondiscrimination Agreements are to annually prepare a report of their Title VI Program implementation compliance activities. This report is due one year from the date of approval of the Title VI plan and then annually on that same date. This is to describe the accomplishments that occurred during the year. This Annual Title VI Update and Accomplishment Report will be completed by the local agency and forwarded to the District Title VI Liaison, who will forward it to the Title VI Coordinator, at GDOT EEO for review and approval. Each report will attach a completed questionnaire that addresses its Federal-aid transportation program. A copy of the questionnaire will be provided to local agency with GDOT EEO Title VI Plan or Nondiscrimination Agreement approval.

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#### **4.5 Revisions to the Local Agency Title VI Plan or Nondiscrimination Agreement**

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The Plan will always contain current information on names of staff and any other needed revisions. Substantial revisions are to be submitted to the Title VI Coordinator immediately for review and approval by the GDOT EEO. Substantial revisions are to be submitted to the District Title VI Liaison immediately for review and approval by the Title VI Coordinator at GDOT EEO. Local agencies only need to submit a revised Title VI document when program changes such as the ones described above take place.

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#### **4.6 Title VI Complaint Investigations**

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All complaints shall be forwarded to the Title VI Coordinator at GDOT EEO Office. The Title VI Coordinator will immediately forward the complaint to the FHWA Headquarters Civil Rights Office (HCR) to determine who is to investigate the complaint. Only qualified, well-trained investigators should conduct these investigations. No agency is allowed to investigate a complaint against itself. All findings from state or local investigations are preliminary and subject to the concurrence of FHWA HCR. FHWA HCR will render final decisions on all cases. There are no administrative appeal forums in Title VI complaints. Once FHWA HCR issues its final agency decision (FAD), a complainant in disagreement with such determination may file an appeal with the appropriate U.S. District Court.

An annual log of complaints must be maintained by the local agency. The log of complaints must contain the following information for each complaint filed:

- Name and address of the person filing the complaint
- Date of complaint
- Basis of complaint
- Disposition of complaint
- Status of complaint

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#### 4.7 Title VI Compliance Reviews

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GDOT/FHWA will conduct periodic reviews of compliance with Federal Title VI regulations. Compliance review is initiated by the GDOT Title VI Coordinator by notifying the District Title VI Liaison to make arrangements to conduct periodic compliance reviews of local agencies with approved Title VI Plans. The compliance review will focus on how effectively the local agency has implemented its approved Title VI Plan. Documentation is gathered and individuals with Title VI responsibilities are interviewed as part of the review process. The local agency will be notified in writing of the scheduled date and the documents that will be required for the on-site review.

A Local Government is found to be in compliance if no deficiencies are found during the on-site review. The LG will be told at the conclusion of the review and be notified in writing that it is in compliance.

A Local Government will be found in non-compliance if deficiencies are identified during the review. The LG will be notified in writing of the deficiencies and will have 90 days to correct them. After an agency corrects deficiencies, it will be notified in writing that it is in compliance. If a local agency does not correct Title VI Program deficiencies identified by GDOT or FHWA, it may be subject to sanctions including the suspension of FHWA funding.

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#### 4.8 Other Nondiscrimination Statutes Related to Title VI

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Limited English Proficiency – LEP (Executive Order 13166) is one of the bases covered under Title VI is national origin. One type of national origin discrimination is discrimination based on a person's inability to speak, read, write, or understand English. The Federal government and those receiving Federal financial assistance (recipients, sub-recipients, contractors) must take reasonable steps to ensure that LEP persons have meaningful access to the programs, services, and information those entities provide. This may require providing written and/or oral communications in a language other than English. More information regarding LEP responsibilities can be found at: [Federal Agency LEP Guidance and Language Access Plans](#).

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#### 4.9 Environmental Justice (Executive Order 12898)

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Procedures for addressing Environmental Justice can be provided by the Title VI Coordinator at GDOT EEO Office or in the [Environmental Analysts Guidebook: Social Environmental – Communities](#).

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#### 4.10 Construction Contracts EEO Requirements

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To effectively assure Equal Employment Opportunity, it is the policy of the Federal Highway Administration to require that all Federal-aid highway construction contracts include specific requirements related to 23 CFR Part 200, 23 CFR Part 230, 23 USC Section 140, 23 CFR 230 Subpart A and Subchapter A 1.36, as well as, other requirements to implement the Title VI Program, related civil rights laws, and regulations. These specific requirements apply to contractors and all their subcontractors (not including material suppliers) holding subcontracts of \$10,000 or more. To be eligible for Federal aid funds, the local agency must comply with the civil rights requirements.

Local agencies and their contractors must each designate an EEO officer to ensure compliance with the EEO, Title VI, Section 504, and training policy. The GDOT Equal Employment Opportunity Office will monitor both the local agency and its contractors for compliance as part of the normal project management reviews and through contract compliance reviews of selected contracts.

The local agency, by signature to the Local Agency Agreement, agrees to the following:

- a. To assist and cooperate actively with the state in obtaining contractor and subcontractor compliance with the equal opportunity clause and rules, regulations, and relevant orders of the FHWA and/or Secretary of Labor.
- b. To furnish the state such information as it may require for the supervision of such compliance and otherwise assist the state in the discharge of its primary responsibility for securing compliance.

The local agency must consult the *Specifications*, the *General Provisions*, the *Special Provisions*, and the *GDOT Construction Manual* <https://www.dot.ga.gov/GDOT/Pages/TheSource.aspx> to administer the EEO and training programs.

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#### 4.11 EEO Contract Administrations

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The local agency has the responsibility to:

- a. Ensure all federal regulations are inserted into the prime contract and subsequent subcontracts as applicable. Including but not limited to FHWA 1273, Prompt Payment, DBE Special provision – Criteria for Acceptability, Executive Order 11246, etc. Copies of federal provisions are available through the GDOT Project Manager.
- b. Conduct preconstruction conferences during which EEO and training Special Provisions for Federal aid contracts are discussed with the contractor.
- c. Ensure that the contractor posts and maintains notices and posters setting forth the contractor's EEO policy. A supply of Office of Federal Contract Compliance Programs (OFCCP) Poster No. 1420, Equal Employment Opportunity are available online.
- d. Monitor on-site compliance with the EEO and training Special Provisions of Federal aid contracts.
- e. Ensure that their contractors locate, qualify, and increase the skills of minority groups, women employees, and applicants for employment as specified in the training provisions.
- f. Prepare and/or ensure the preparation of the required EEO and training reports.
- g. Perform labor interviews and payroll inspections to verify compliance with the Davis Bacon Act.
- h. Perform Commercial Useful Function (CUF) inspections on all participating DBEs. Refer to LAP Program webpage for CUF Inspection form for Construction projects and instructions.

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#### **4.12 Construction Contractor and Subcontractors EEO Reports**

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The contractor and subcontractors must submit the *Monthly Employment Utilization Report* for all the employees in the work force including an ethnic breakdown and the classification for each employee in each trade on their Federal aid highway construction projects under construction during each month. The report is a summation of employees on their monthly payroll period. The local agency retains this form in its project files. The local agency then summarizes these reports received from all contractors and subcontractors that were working on Federally-assisted projects. This report is prepared by the local agency and sent to the GDOT Project Manager.

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#### **4.13 Civil Rights Monitoring During Construction**

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During the project construction, the local agency must monitor the contractor's performance to ensure compliance with its Title VI, Section 504 and EEO. The local agency's designated EEO Officer will conduct reviews with the contractor, maintain records, reports, and required Title VI statistical data concerning the contractor's performance, and ensure that the local agency itself is in compliance with its EEO policy.

The contractor will submit certified detailed invoices showing the related weekly payroll number, name of the trainee, total hours trained under the program, previously paid hours, hours due, and the dollar amount due this estimate. These invoices must be kept with the project records and will become part of the temporary final records to be retained for three years after acceptance of the project by GDOT and FHWA. Refer to the GDOT Construction Manual and procedures for reviewing contractor payrolls.

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#### **4.14 Contractor Compliance Review**

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A 23 CFR 230 Contractor Compliance review may be performed by the GDOT EEO Office anytime during the life of the project. Upon notification, the local agency's designated EEO Officer shall assist in compliance review process.

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#### **4.15 Contractor Provided Training**

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The Contractor shall provide training according to the approved training program and the contract provisions. Approved training programs are contained in the Georgia On-The-Job Training Program Manual available online. The Contractor training plan and individual trainees must be forwarded to the GDOT EEO Office for concurrence prior to local agency approval being granted to the contractor.

When training hours are assigned to the project, the local agency must verify that the trainee is on the project by periodically conducting interviews to determine if training is beneficial and in accordance with the approved program. The "Trainee Questionnaire" form or similar forms should be used by the LG to document the employee interviews and the contractor's compliance with the training requirement. For examples of the form the GDOT Project Manager should be contacted.

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#### **4.16 Overview - Disadvantaged Business Enterprises (DBE)**

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Requirements of the DBE Program, as prescribed in 49 CFR Part 26, apply to all recipients (and Sub-recipients) of highway, transit, and airport funds. GDOT establishes an annual goal submitted to FHWA August 1, every year for acceptance. The annual goal is reached through an approved methodology. A local agency, when participating in programs funded in whole or in part with funds made available by the GDOT, must either adopt GDOT DBE Plan, or develop an equivalent plan for approval by USDOT.

While GDOT EEO has the overall responsibility for administration and implementation of GDOT DBE Program, local agencies (as sub-recipients) also have responsibility to ensure that their Federally-assisted contracts are administered in accordance with the State's approved DBE Program Plan, which is available on the GDOT web site.

GDOT EEO Officer may conduct compliance reviews of the local agency's administration of the DBE Plan. A local agency that is found to be in noncompliance may be subject to formal enforcement action (suspense or loss of Federal funds and/or CA status).

Each Federally-assisted contract/subcontract must include the following assurance:

The contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

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#### **4.17 Local Government DBE Compliance Procedures**

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The GDOT establishes an annual aggregate DBE goal for all Federal-aid highway projects. To achieve this aggregate goal, the GDOT sets an individual goal for each federally assisted highway project as described in GDOT Policy and Procedure 8201-1.

The local agency is responsible for ensuring program compliance and monitoring its contractor's DBE activities. To obtain a DBE Goal, the local agency must send a cost estimate for the proposed services in electronic format to the GDOT Project Manager. The GDOT EEO Office will propose a goal to a GDOT DBE Committee for approval. The specific DBE Goal is included in the Project Agreement and the bid documents. The local agency is responsible for insuring that the contractor proposes to use qualified DBE firms to meet the goal for their projects. The monitoring of DBE participation will be tracked using the amounts paid DBE participants. See DBE Special Provision: Criteria for Acceptability.

GDOT will maintain and make available to interested persons a directory identifying all firms eligible to participate as a DBE in its program. The DBE directory/Unified Certification Program (UCP) Directory is available online.

<https://gdotbiext.dot.ga.gov/ext-bi/saw.dll?dashboard>

Georgia Department of Transportation

Equal Opportunity Division  
Equal Opportunity Director  
One Georgia Center  
600 West Peachtree Street, N.W. 7<sup>th</sup> Floor  
Atlanta, GA 30308  
(404) 631-1972

Bidders failing to meet the DBE goal requirement must show that they made good faith efforts to meet the goal, in order to be awarded the contract. After opening bids, the local agency must submit to the GDOT Project Manager the successful bidder's certified DBE subcontractors, also known as the DBE commitment list.

The local agency is responsible for the enforcement of the DBE regulations and policies during the construction projects. The local agency shall comply with these policies and regulations by assuming the duties and responsibilities of the Acquisition Division, Bidding Administration, the District Office, and the Area Engineer. The local agency will submit the required reports to the Area Engineer and the information will be submitted to GA EEO Office and FHWA as needed. The local agency must demonstrate good faith efforts in monitoring DBE participation. In the event of a goal shortfall, the local agency shall assess the contractor's good faith efforts and forward a copy of the letter (including letterhead) with their decision to the Area Engineer.

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#### **4.18 Americans with Disabilities Act (ADA)**

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The LG will ensure compliance with the Americans with Disabilities Act as found in the Title II ADA and Section 504 of the Rehabilitation Act.

The Title II regulation covers "public entities". "Public entities" include any State or local government and any of its departments, agencies, or other instrumentalities.

If a LG project includes pedestrian facilities, the facility must provide pedestrian access for persons with disabilities in compliance with ADA Title II. Federal, State and local governments must provide pedestrian access for persons with disabilities whenever a pedestrian facility exists in compliance with Section 504 standards. Information regarding the design of transportation facilities and compliance may be found at ROADS-Repository for Online Access to Documentation and Standards (<https://www.dot.ga.gov/GDOT/pages/designmanualssoftware.aspx>).

All activities, services, and programs of public entities are covered and must ensure that individuals with disabilities are not excluded from services, programs and activities because buildings are inaccessible. State and local governments must ensure effective communication with individuals with disabilities. Where necessary to ensure that communications with individuals with hearing, vision, or speech impairments are as effective as communications with others, the public entity must provide appropriate auxiliary aids.

Unlike Section 504 of the Rehabilitation Act of 1973, which only covers programs receiving Federal financial assistance, Title II extends to all the activities of State and local governments whether or not they receive Federal funds.

## Complaints

Any individual who believes that he or she is a victim of discrimination prohibited by the regulation may file a complaint. Complaints on behalf of classes of individuals are also permitted.

Complaints should be in writing, signed by the complainant or an authorized representative, and should contain the complainant's name and address and describe the public entity's alleged discriminatory action.

Complaints may be sent to:

Disability Rights Section  
Civil Rights Division  
U.S. Department of Justice  
P.O. Box 66738  
Washington, DC 20035-6738

Complaints may also be sent to agencies designated to process complaints under the regulation, or to agencies that provide Federal financial assistance to the program in question.

Visit the following FHWA web page for additional information relating to ADA requirements:  
<http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=107>.



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## Chapter 5. Local Government Consultants

### 5.1 Local Government Consultants

To be eligible for reimbursement of FHWA funds for payments to a consultant, the Brooks Act and the below mentioned federal and state code must be followed. It is the policy of the GDOT that LG will procure all consultant professional services from firms pre-qualified by the GDOT. If a LG elects to retain the consultant at its own cost, state law must be followed.

This chapter covers agreements for architects, landscape architects, land surveying, and professional engineering services. These services fall within the scope of the following practices:

- (A) Architecture, as defined in paragraph (6) of [Georgia Code Section 43-4-1](#);
- (B) Registered interior design, as defined in [Georgia Code Section 43-4-30](#);
- (C) Professional engineering, as defined in paragraph (11) of [Georgia Code Section 43-15-2](#);
- (D) Land surveying, as defined in paragraph (6) of [Georgia Code Section 43-15-2](#); or
- (E) Landscape architecture, as defined in paragraph (3) of [Georgia Code Section 43-23-1](#).

These will be referred to as engineering and design related services, or consultant engineering services. Agreements for other services may be entered into for services such as long-range planning, economic analyses, real estate negotiations, and environmental assessments. These will be referred to as consultant personal services (not engineering). Throughout this discussion the term “project” means the work to be undertaken by the consultant. An engineering and design related services project may include construction engineering but will not include the contracted construction work.

It is the policy of the GDOT that the LG will procure all consultant professional services using the Qualification Based Selection (QBS) process as required by the Brooks Act. This means that procurement of these services will be based on open competitive negotiations and the firm(s)'s demonstrated competence and qualification for the type of professional services required at a fair and reasonable price.

The Federal laws and regulations that govern the procurement of design-related services with Federal-aid highway funds are:

- [Title 23 United States Code, Section 112 \(23 U.S.C. 112\)](#), "Letting of Contracts,"
- [Title 23 Code of Federal Regulations, Part 172 \(23 CFR 172\)](#) "Administration of Engineering and Design-Related Service Contracts,"
- Federal Register: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments or what is commonly called the “Common Rule,”
- Title 40 United States Code, [Chapter 11, Sections 1101-1104](#) commonly called the "Brooks Act."
- Title 48 [Code of Federal Regulations](#), Part 31 (CFR 31) “Contract Cost Principles and Procedures.”

The GDOT policies and procedures govern the acquisition of professional services provided by consultants for engineering and design related services work that is financed in part or fully with Federal-aid highway or State funds. The details of these policies and procedures are found in [GDOT Transportation Services Procurement \(TSP\) Manual](#) and the LG must comply with these Federal and State laws and regulations to qualify for reimbursement with Federal funds.

Public Law 101-121 Section 319 prohibits the use of Federal funds by consultants or sub-consultants who receive a Federal contract, grant, loan, or cooperative agreement pay, to any person for influencing or attempting to influence a Federal LG or Congress in connection with awarding any of the above.

The basic steps to procure consultant service are:

1. Determine the need for services.
2. Pre-Qualification
3. Development
4. Advertisement
5. Evaluation
6. Negotiation
7. Award
8. Contract Administration

Engineering and Design Related Services include the following:

1. Professional or technical expertise to accomplish a specific study, project, task, or other work statement.
2. Any phase of project development, as well as special studies or other assignments within any phase.
3. Periodic examination and consultation or full-time technical inspection during the construction phase.
4. Consultant design and preparation of plans, specifications, and estimates is common when a LG staff is small or when a LG needs additional expertise. Consultant services do not include purchased services provided by a vendor to accomplish routine, continuing, and necessary services.

Before a Local Government advertises for engineering and design related services, it must have a clear definition of the tasks to be accomplished. This includes identification of:

1. The nature and scope of effort required,
2. The technical requirements and qualifications of the consultant services needed,
3. The level of funding resources available,
4. The time frame for performing the work, and
5. The expected results and services to be received.

If assistance is needed in describing the desired scope of work, the LG should seek information from the GDOT Project Manager. Because selection of the most qualified consultant firm is based on evaluations by the LG, it must develop clear selection guidelines (refer to [GDOT Transportation Services Procurement \(TSP\) Manual](#) and the GDOT's [Consultant Prequalification Manual](#)). The selection criteria should enable the LG to identify and select the consultant best qualified to meet the LG needs and ensure that the selected consultant understands and provides services for the LG needs in the most cost-effective manner.

The basic agreement types are lump sum, cost plus fixed fee, provisional hourly rates, negotiated hourly rates, and cost per unit of work. The LG should determine the type of agreement to be developed with the consultant (though this may be modified during negotiations with the selected consultant). Consultant selection shall provide for maximum open and free competition and should provide opportunities for small and disadvantaged business enterprises to obtain an equitable share of the work, consistent with the project scope and capabilities of available small and disadvantaged owned firms.

Engineering and Design related services consultants may be solicited for:

1. A specific project
2. A specific stage of a project (i.e., Design Report)
3. General engineering services (i.e., supporting services of a LG staff in studies, design, etc.)
4. For more than one project (i.e., several small bridge design projects)
5. Multiple phases of a single project
6. For a combination of the above.

In the case of projects covering two or more distinct phases, when the cost for the second phase depends on decisions reached during the first phase, the agreement should cover only the first phase. The agreement for preliminary engineering should state that the consultant may be considered for subsequent phases provided this option was identified in the advertised solicitation. The consultant's engagement to complete subsequent phases depends upon the consultant's satisfactory performance on prior work and upon negotiation of an agreement for the subsequent phase(s). The LG is not obligated to use the same consultant firm for all phases. Separate consultant agreements may be considered for each phase (e.g., one for preliminary engineering and another for construction engineering).

While an engineering management consultant may assist a LG in fulfilling its responsibilities, the LG cannot delegate these responsibilities to a consultant or to another LG. A consultant serving in a management role for a LG, and then managing consultant agreements with its own firm, is a conflict of interest.

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## 5.2 Advertising Professional Services

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Georgia State Law, Code Section 50-22-3 requires the advertising of all licensed and unlicensed professional engineering and design related services through the State of [Georgia Procurement Registry](#) administered by the Department of Administrative Services (DOAS) for a period of no less than thirty (30) days, except for procurements that require the use of the Simplified Acquisition

method, or for Emergency Acquisition, or if a waiver for the 30-day duration has been granted by the Commissioner or her designee. The threshold for simplified acquisition is \$100,000. For detailed procedures, refer to the [GDOT Transportation Services Procurement \(TSP\) Manual](#).

The advertisement should contain the following information:

1. A project title, estimated project cost, and estimated start and end dates.
2. The general scope and nature of the project or work for which services are required and the contact information of a representative of the LG who can provide further details.
3. Solicitations of qualification statements, referred to as Requests for Qualifications (RFQ) from consultants, must incorporate a clear and accurate description of the technical requirements for the service to be procured, including any special conditions or certifications required.
4. Solicitations must clearly set forth sufficient detail on how applicant qualifications will be evaluated. These may include but are not limited to key personnel, firm experience, ability to meet schedule, past performance, in-house expertise, familiarity with GDOT/ FHWA standards, and DBE approach and commitment.
5. Non-engineering service applicants should be asked to provide estimates for the man-hours and classifications needed to complete the project.
6. In the event that a project covers multiple phases, the LG is not obligated to utilize the original consultant for subsequent phases. If the LG desires this option, the advertisement must state the possibility of a multi-phase agreement at the discretion of the contracting LG.
7. All prospective consultants must be advised that compliance with Federal EEO requirements is required for all Federal funded projects.
8. Consultants will also be held to ADA and Civil Rights language for the employing LG.
9. Response Due Date.
10. Publication dates.
11. Specific project cost estimates shall not be requested until a consultant has been selected.

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### **5.3 Engineering and Design Consultant Evaluation and Selection Process**

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The LG shall establish guidelines for technical evaluation of the qualifications received, determination of finalists for the purpose of written or oral discussions, and selection for agreement award. Consultants will be pre-qualified by GDOT and will be selected based upon the qualifications they present. For engineering and design related services, fees for services cannot be considered during the selection process. Connect with this website <https://www.dot.ga.gov/GDOT/pages/prequalification.aspx> for more information about GDOT Prequalification Procedures.

The following are frequently utilized as part of the consultant selection process:

1. "Live" Interviews and Presentation of the Statement of Qualifications (SOQ) by Consultant Individuals or Teams. This approach provides for interaction with the LG and showcases the

consultant's presentation skills. This approach is best for larger, more complex projects, but does increase travel time and costs to the applicant. Video presentation or teleconferencing may be considered as an alternative to reduce travel costs.

2. Telephone Interviews provides for interaction but eliminates travel time and cost. This approach is useful for smaller projects.

Non-competitive negotiations may be used when it is not feasible to award by competitive negotiations or simplified acquisition and are limited to the following:

1. After the solicitation of a number of sources, competition is determined to be inadequate. LG must receive approval before using this method of contracting when utilizing federal funds.
2. Emergency - To address a set of unforeseen circumstances beyond the LG control which present a real, immediate threat to the proper performance of essential functions, or may result in the material loss or damage to property, bodily injury, or loss of life if immediate action is not taken. (See [Consultant Prequalification Manual](#))
3. Sole Source - Sole source agreements may be requested from the GDOT Project Manager when the consultant provides professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The LG must provide the GDOT Project Manager written justification for requesting this option based upon:
  - a. The unique nature of the services and/or the unique qualifications, abilities, or expertise of the consultant to meet the LG needs. (e.g., are they highly specialized or one-of-a-kind? What are their past performance, their cost effectiveness [learning curve], and/or the follow-up nature of the required services?).
  - b. Other special circumstances that may be relevant such as confidential investigations, copyright restrictions, or time constraints.
  - c. Availability of consultants in the location required. GDOT Project Manager must approve all consultant procedures that are exceptions to the competitive process.
4. Documentation of Selection. Following consultant selection, the LG shall retain the following documentation in the project file:
  - a. The names of a minimum of three consultants considered for the work, (excluding exceptions detailed above), and
  - b. Consultant selected and reasons why this consultant was chosen over the others.

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#### **5.4 Oversight of the Agreement and Project Closure**

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The Local Agency shall assign a full-time responsible charge to work with the consultants to ensure that the work delivered under the contract is complete, accurate, and consistent with the terms, conditions, and specifications of the contract. The responsible charge responsibilities are to:

1. Prepare supplements to existing agreements for services beyond the scope of the original agreement and include the Agency's independent estimate of the costs for the work involved.
2. Ensure that no work is done or costs incurred until the agreements and supplements are approved by the approving authority and executed by the proper parties.
3. Conduct regular meetings with the consultant to track progress and identify potential concerns.
4. Act as a liaison between the Agency and the consultant to assure compliance with the terms of the agreement, including EEO provisions and the use of mandatory forms.
5. Monitor the consultant's progress reports to ensure that problem areas are reported and corrective action taken.
6. Make sure that all work is within the agreement's scope of work.
7. Establish controls to monitor the time for completion of the agreement to ensure that the specified time limitations are not exceeded.
8. Ensure the accuracy of bills presented by the consultant and their consistency with the work performed.
9. Maintain cumulative cost records to assure that costs are allowable, allocable, and reasonable.
10. Track bills to ensure compliance with agreement and fixed fees.
11. Establish controls to prevent overpayment of the agreement and fixed fees.
12. Ensure that all terms and conditions of the agreement have been met prior to final release of the consultant.

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## **5.5 Contract Close-Out**

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When final contract deliverables have been submitted by the consultant and determined to be satisfactory by the GDOT, the Project Manager shall initiate the contract closeout process by issuing a Stop Work Notice to the local government.

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## **5.6 Performance Evaluations of Consultants**

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For Local Governments choosing to use consultants, consultant evaluation form must be completed annually while the work is being performed and/or at the completion of the work being performed. All consultants must be pre-qualified in the area in which they are performing work. In order for GDOT to have a record of each consultant's and sub-consultant's performance, the LG should complete the evaluation form for each consultant and sub-consultant involved with the project and submit to the GDOT Project Manager. The evaluation form can be found the GDOT LAP Webpage.

For further information contact:

Georgia Department of Transportation  
Office of Transportation Services  
Prequalification

One Georgia Center  
600 West Peachtree Street, NW, 19<sup>th</sup> Floor  
Atlanta, GA 30308  
Telephone (404) 631-1930



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## Chapter 6. Billing/Eligibility/Records

### 6.1 Progress Billing

All progress billings shall be submitted to the Georgia Department of Transportation Project Manager by the LG in accordance with the terms of the Project Framework Agreement between the LG and GDOT. When right of way acquisition is applicable to a LG Let project, it is the responsibility of the LG to follow the *Acquisition Guide for Local Public Agencies and Sponsors* manual. The *Acquisition Guide for Local Public Agencies and Sponsors* manual provides the requirements for LG invoice for right of way.

**NOTE: All accrued cost incurred prior to FHWA Federal-aid approval and authorization is ineligible for Federal aid and become the liability of the LG.**

All FHWA Federal-aid eligible cost start after the FHWA Georgia Division signs and executes authorization then notifies GDOT. FHWA authorization will remain in effect but is subject to withdrawal for all or any part of a LG Administered Project found not to be in compliance with the Federal-aid laws, procedures or regulations.

GDOT assigns a contract number for all Federal-aid projects. This contract number correlates the project to the Federal Project Number; STIP Project Number and PEOPLE SOFT Accounting numbers. The LG will include the GDOT contract number on all correspondence, invoices or other transmittals in addition to the STIP Federal-aid project number.

### 6.2 Invoicing Procedures

After GDOT has fully executed all applicable agreements with the LG, work may begin on the project. Any work that is performed before the FHWA official authorization date does not qualify for reimbursement.

Progress invoices are submitted as follows:

1. The LG begins work on the first phase of the project.
2. The LG pays for services rendered.
3. Using GDOT form 1680, the LG will request reimbursement of the accrued cost paid for services rendered. The LG will indicate on each request the total accrued cost paid and the amount of accrued cost paid as the LG non-Federal share match. GDOT form 1680 can be found at the following link:

<https://www.dot.ga.gov/PartnerSmart/DesignManuals/Program%20DeliveryLAP/FORM%20-%20DOT1680%20-%20Local%20PE%20Reimbursement%20Request.zip>

4. The LG will submit the completed form 1680 along with proof of payment of rendered services at an interval of no more than once per month to the GDOT project manager.
5. Reimbursement requests are processed by GDOT using standard procedures. The LG will be paid the Federal-aid share of accrued cost invoiced.

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### 6.3 Invoice Numbering and Timing of Submittal

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Progress billings will be numbered sequentially and submitted not more than once per month.

If the billing is prepared properly, payment should normally be received within 30 calendar days from the date the invoice is received in GDOT contracts payable office. This is in accordance with the Federal Acquisition Regulation (FAR) 32.9 Prompt Payment.

If payment is not received within this time, the LG should contact GDOT.

---

### 6.4 Identification of Participating and Non-participating on Invoice

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After FHWA project funding authorization is approved costs are eligible for FHWA participation if claimed in accordance and compliance with Title 23 United States Code (USC), 23 Code of Federal Regulations (CFR) and Office of Management and Budget (OMB) Circular A-87.

The costs must be applied directly for the benefit of the project being charged, i.e., labor and materials are charge directly to the project.

#### **Participating Functions:**

**Preliminary Engineering:** FHWA preliminary engineering funding approval authorization date begins Federal PE eligibility. PE work of locating and designing, conducting environmental activities, making surveys and maps, sinking test holes, making foundation investigations, preparing plans, specifications and estimates, centerline, right-of-way plan preparation and other related preliminary work and incidental construction staking, to the extent such staking is necessary to review construction plans, and related general engineering preparatory to the letting of a contract for construction. The work may include traffic counts, studies undertaken to determine traffic demands, holding of public meetings and public hearings, mitigation, and permitting costs as well.

These engineering costs are generally incurred prior to the date of construction, PS&E approval or the date construction plan changes are completed prior to the beginning of construction. The date of contract award is the cutoff for charging to preliminary engineering.

**Acquisition of Rights-of-Way:** The preparation of right-of-way plans; appraisal for parcels acquisition; review of appraisals; preparation for and trial of condemnation cases; management of properties acquired; furnishings of relocation advisory assistance; and other related labor expenses. No right-of-way acquisition activities will begin by the LG prior to both FHWA approval of NEPA document and FHWA right-of-way phase authorization. *NOTE: Violation of any of the requirements may jeopardize all or part of the project's eligibility for Federal funding. Violation of this requirement will result in the project being ineligible for Federal funding and the LG liable to reimburse the FHWA for all applicable ineligible accrued payments received for the project.*

**Construction Engineering:** The work of supervising construction activities, the inspection of construction and related mechanical aspects, e.g., staking necessary to review construction plans together with those staking activities necessary for the LG to control construction operations, testing materials incorporated into construction, checking shop draws, and measurements for and preparations of progress and final estimates. Construction engineering costs are generally incurred only after the approval of the PS&E, a contract number is issued, and also incurred prior to:

- A. The date of completion of the final contract pay estimates and its submission to the contractor;
- B. The final date of charges for required material testing; or
- C. The date of completion of the separation of contract cost by code type, location, etc., whichever is applicable to that portion of the construction engineering phase involved.

**Administrative Settlement Costs – Contract Claims:** Services related to the review and defense of claims against Federal aid projects.

**Miscellaneous Functions:** Costs incurred for other activities which are properly attributable to, and for the benefit of, Federal aid projects but are not assignable to any of the previously defined functions.

**Construction Costs Other Than Contractor Payments:**

- A. Royalty expenses for material furnished by the LPA that are used by the contractor.
- B. Temporary signs, traffic control labor, traffic control devices, and temporary illumination furnished by the LPA. The initial basic cost of traffic control devices purchased for use on the projects in an authorized participating cost.
- C. Work performed by local forces pertaining to the Federal aid project.

***Note:** Violation of any of the requirements may jeopardize all or part of the project's eligibility for Federal funding. In addition, no project will be advertised for bids, nor will any project work be undertaken, and no materials will be purchased on any Federal-aid project prior to Construction Phase authorization from FHWA and GDOT. Violation of this requirement will result in the project being ineligible for Federal funding.*

**Nonparticipating Functions:** Classifications of work ineligible for Federal participation:

**General Administration:** General Administration, supervision, and other unallowable overhead costs of the LG are those functions considered necessary for the management, supervision, and administrative control of a suitably equipped, staffed, and operational agency but are not expended directly to labor or materials within the termini of the project. Examples of such unallowable costs may include, but not limited to, the following types of personnel, related payroll benefit costs, and other administrative support services:

- A. Directors, Department Heads, Legal, Accounting, Budgeting, Personnel, and Procurement Units.
- B. Related clerical, secretarial, and other support services for officials and personnel listed immediately above.
- C. Management, supervision, and administration overhead costs incurred by other units of government of state, county, or city governmental organizations.

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## 6.5 Standards for Selected Items of Costs

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The following are standards for determining the allowable selected items of costs. In general, costs must be reasonable, necessary, and allocable to the specific project. The allowable selected items of cost are subject to the general policies and principles stated above.

**a. Salaries and Wages:**

1. Subject to appropriate authorization requirements, Federal funds may participate in the cost of salaries, wages, and related payroll expenses incurred for periods of time public employees are actively engaged, either directly or indirectly, in project related activities.
2. Salaries, wages, and related payroll expenses of a LG for maintenance, general administration, supervision and other overhead are not eligible for reimbursement.

**b. Travel and Transportation:**

1. Federal funds may participate in the cost of commercial transportation, privately owned automobiles, and per diem or subsistence essential to the completion of the project and is performed in accordance with prescribed procedures.
2. Reimbursement may be made for use of privately owned automobiles and per diem or subsistence incurred in conformance with the established reimbursement policy of the local agency.

**c. Employee Leave and Holidays:**

1. A LPA may claim reimbursement for the costs of leave e.g., annual, sick, military, jury, etc., that is earned, accounted for, and used in accordance with established procedures. The cost of such leave must be a liability of the LPA, must be equitably distributed to all activities, and the pro rata costs distributed to a Federal aid project must be representative of the amount that is earned and accrued while working on the project.
2. Compensatory leave granted by a LPA in lieu of payment of overtime to eligible employees may be claimed for reimbursement if accrued and granted under established policies on a uniform basis. Such leave costs must meet the criteria discussed in paragraph (a) of this section.
3. Costs for other leave of a similar nature which may be peculiar to a specific LPA may also be reimbursed provided it meets the criteria set forth in paragraph (a) of this section.

**d. Social Security, Retirement, and Other Payroll Benefits:**

1. Federal funds may participate in allocable costs incurred for social security, retirement, group insurance premiums, and similar items applicable to salaries and wages of public employees engaged in work on Federal aid projects.
2. The costs for such benefits must be a liability of the LPA and must meet the criteria set forth in paragraph 1 of c above.

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## 6.6 Utility Relocations, Adjustments, and Reimbursement

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### A. Eligibility:

1. When requested by the LPA, Federal funds may participate, at the pro rata share applicable, in an amount actually paid by the LPA for the costs of utility relocations. Federal participation is subject to the provisions of Chapter 645.103 of 23 CFR and may be under one of the following conditions:
  - a. The LPA certifies that the utility has the right of occupancy in its existing location because it holds the fee, an easement, or other real property interest, the damaging or taking of which is compensable in eminent domain;
  - b. The utility occupies privately or publicly owned land, including public road or street right of way, and the local authorizing such payment in conformance with the provisions of 23 U.S.C. 123; and/or
  - c. The utility occupies publicly owned land, including public road and street right-of-way, and is owned by a public agency of political subdivision of the state, and is not required by law or agreement to move at its own expense, and the LPA certifies that it has the legal authority or obligation to make such payments.
  - d. The LPA shall be advised by law that any local let project that will reimburse any utility/railroad company within the project limits will have the Buy America clause in the Contract between the locals and the Utility/Railroad Company. This is the case, even if the locals state they would use their own money for the relocation work. Not adhering to this Law will jeopardize the local's ability to receive federal-aid funds for the entire project. Before GDOT can certify any new project, this clause will have to be included in their contract if any reimbursable utility work occurs. GDOT will require a copy before certification can take place. Refer to GDOT Utility webpage for additional information.
2. On projects where the LPA has the authority to participate in project costs, Federal funds may not participate in payments made by a political subdivision for relocation of utility facilities when state law prohibits the LPA from making payment for relocation of utility facilities. 23 CFR 645.107.
3. On projects where the LPA has the authority to participate in project costs, Federal funds may participate in payments made by a political subdivision for relocation of utility facilities when the LPA has certified that such payment is based upon the provisions of this part and does not violate the terms of a use and occupancy agreement, or legal contract, between the utility and the LPA.
4. Federal funds are not eligible to participate in any costs when the utility contributes or repays the LPA except for utilities owned by the political subdivision on projects that qualify under the provisions of 23 CFR 645.107, in which case the costs of the utility are considered to be the cost of the LPA.

5. The FHWA may deny Federal fund participation on any payments made by the LPA for the relocation of utility facilities when such payments do not constitute a suitable basis for Federal fund participation under the provisions of Title 23, U.S.C.
6. The rights of any public agency of political subdivision of a state under contract, franchise, or other instrument or agreement with the utility, pertaining to the utility's use and occupancy of publicly owned land, including public road and street right-of-way, shall be considered the rights of the LPA in the absence of state law to the contrary.
7. In lieu of the individual certifications required by paragraph (1) and (3), the LPA may file a statement with the FHWA setting forth the conditions under which the LPA will make payments for the relocation of utility facilities. The FHWA may approve Federal fund participation in utility relocations proposed by the LPA under the conditions of the statement when the FHWA has made an affirmative finding that such statement and conditions form a suitable basis for Federal fund participation under the provisions of 23 U.S.C. 123.
8. Federal funds may not participate in the cost of relocations of utility facilities made solely for the benefit or convenience of a utility, its contractor, or a highway contractor.
9. When the advance installation of new utility facilities crossing or otherwise occupying the proposed right-of-way of planned highway project is underway, or scheduled to be underway, prior to the time such right-of-way is purchased by or under control of the LPA, arrangements should be made for such facilities to be installed in a manner that will meet the requirements of the planned highway project. Federal funds are eligible to participate in the additional cost incurred by the utility that are attributable to, and in accommodation of the highway project provided such costs are incurred subsequent to authorization of the work by the FHWA. Subject to the other provisions of this regulation, Federal participation may be approved under the foregoing circumstances when it is demonstrated that the action taken is necessary to protect the public interest and the adjustment of the facility is necessary by reason of the actual construction of the highway project.
10. Federal funds are eligible to participate in the costs of preliminary engineering and allied services for utilities, the acquisition of replacement right-of-way for utilities, and the physical construction work associated with utility relocations. Such costs must be incurred by, or on behalf of, a utility after the FHWA has authorized the LPA to proceed in accordance with 23 CFR 630, subpart A, Federal-Aid Programs Approval, and Project Authorization.

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## **6.7 Reimbursement of Railroad Work**

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Costs must be incurred in accordance with 23 CFR part 646 B and will be reimbursed in accordance with 23 CFR Part 140, subpart I, Reimbursement of Railroad Work.



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## 6.8 Audit Expense

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The costs of financial audits are allowable provided that the audits were performed in accordance with the Single Audit Act, as implemented by Circular A-133 Audits of State, Local Governments and Non-profit organizations.

The LPA may use other state, local agencies, and Federal audit organizations as well as licensed or certified public accounting firms to augment its audit force. Audits of third party contract costs, and other audits providing assurance that a recipient has complied with FHWA regulations are all considered project related audits. These financial type audits are different from the Construction/Engineering Compliance Audits noted in Section 11.4.

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## 6.9 Other Allowable Costs Subject to FHWA Approval

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Although some category of expenditures are not mentioned specifically in 23 CFR Part 140, "Reimbursement", as eligible for Federal participation, should the LPA wish to seek Federal participation, it is allowed to request approval from the FHWA prior to billing. The expenditures should relate to the Federal aid project and be well identified through proper documentation.

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## 6.10 Other Unallowable Costs

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Other unallowable costs include those costs identified in OMB Circular A-87.

- **Contributions and Donations:** Contributions and donations, including cash, property, and services, by governmental units to others, regardless of the recipient, are unallowable.
- **Entertainment:** Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as ticket to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.
- **Fine and Penalties:** Costs resulting from violations of or failure to comply with Federal, state, and local laws and regulations are unallowable.
- **Fund raising and investment management costs:** Costs of organized fund raising, including financial campaigns, solicitation of gifts and bequest are unallowable, regardless of purpose for which the funds are used.
- **Governor's Expenses:** The salaries and expenses of the office of the governor of a state or the chief executive of a political subdivision are unallowable.
- **Legislative Expenses:** Salaries and other expenses of the state legislative or similar LG bodies, such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction, are unallowable.
- **Bad Debt:** Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable unless provided for in Federal program award regulations.
- **Under-recovery of Costs under Grant Agreements:** Any excess of cost over the Federal contribution under one grant agreement is unallowable under other grant agreements.

- **Contingencies:** Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, or intensity, or with an assurance of their happening, are unallowable.

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### 6.11 Final Records

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The Local Government must document the work performed on the contract. Documentation consists of field books, inspector's record of field tests, LPA engineer's and inspector's diaries, all invoices, weigh bills, truck measurements, quantity tickets, receiving reports, field office ledgers, mass diagrams, cross-sections, computer listing, work profiles, etc. All records will be subject to GDOT Compliance reviews and audits. Findings and exceptions must be addressed within 30 days.

Final records shall be retained in accordance with applicable State and Federal laws discussed in Chapter 11.

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### 6.12 Access to Records

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In accordance with 49 CFR Subtitle A 18.43 (e), the awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and sub-grantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

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## Chapter 7. Plan Development Process (PDP)

### 7.1 Overview

The GDOT Project Manager is the primary contact point for the LG related to the Plan Development Process. All submittals from the LG to the GDOT will be through the GDOT Project Manager. The GDOT Project Manager is responsible for reviews, recommendations, coordinating and approvals through the GDOT District, Divisions and Offices. (See Chapter 2.5 for specific project activities GDOT retains approval authority).

The GDOT PDP provides detailed LG Administered Project guidance for planning, programming, scheduling, concept development, preliminary design, final design, design guideline variances, construction, and project management system. Observing these procedural steps should avoid project delays related to project development. Reference the [LAP webpage](#) for the Plan Development Process Manual.

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## Chapter 8. Local Government Right of Way Acquisition

### 8.1 Overview of Local Government Right of Way Acquisition Responsibilities

The Right of Way Office primary responsibility is to provide guidance to local public agencies and their sponsors in determining appropriate right of way procedures to be followed as a condition of obtaining funds through various transportation programs administered by the Department. The Right of Way Office will assist the Local Government with monitoring the acquisition process to ensure compliance with Federal and state laws, attends public hearings, property owner meetings, and field plan reviews.

The Right of Way Office guide and assist in implementing federal & state procedures; prepares acquisition contracts, approved right of way plans, review and approve appraisal reports, issues notice to proceed and advise on the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended.

It is the responsibility of the Local Government to hire qualified appraisers, acquire property according the Federal and state regulations, and have all appraisals reviewed by qualified review appraisers. Prior to bid activities the Local Government will obtain all utility/railroad agreement approvals and construction easements. The Local Government will send the right of way certification document to the District Right-of Way LG Coordinator who will forward the certification document to the G.O. State LG Right-of-Way Coordinator. Note that the certification of right of way will be based on information provided to the GDOT Office of Right of Way by the Local Government for their Local project letting. It is the Local Government's responsibility to follow Federal and State requirements (See 8.3 Right of Way References).

### 8.2 Acquisition Guide for Local Public Agencies and Sponsors

The purpose of the GDOT *Acquisition Guide for Local Public Agencies and Sponsors* Manual is to provide the Local Governments and their sponsors with guidance in determining appropriate right of way procedures to be followed as a condition of obtaining funds through various transportation programs administered by the GDOT. The Manual provides to process for right of way acquisition, identifies the different types of projects, applicable forms and billing procedures.

The GDOT *Acquisition Guide for Local Public Agencies and Sponsors* provides how to get started with pre-acquisition activities, and property acquisition procedures. This Guidance document will also provide direction regarding appropriate right of way requirements for projects on the State Highway System that are not in the Department's work program but are funded and constructed by entities other than the Department. This guide will identify the different types of projects, applicable forms and procedures necessary for compliance with all program types.

The Acquisition Guide also serves as a reference guide and help ensure in accordance with 23 CFR 710.201(c) as well as ensures compliance with FHWA, Georgia State Statutes and current GDOT procedures. The guide is updated to include any changes in policy and procedures and responsible to ensure compliance with federal regulations. It provides guidance to Local Governments to help schedule adequate time to complete right of way activities in order to meet the target date for construction.

The Acquisition Guide for Local Public Agencies provides guidance to Local Governments when the Local Governments can begin to purchase right of way for a federal-aid right of way projects and ***if federal funds will be utilized in any portion of the project (not just right of way), all requirements of the Uniform Act apply.*** It helps the Local Government to determine what and when real property is needed to include fee simple, permanent easements and temporary easements. Additionally, it will address billing procedures in order to receive appropriate payments.

By contacting the GDOT Right of Way Office and observing the right of way procedures in the *Acquisition Guide for Local Public Agencies and Sponsors* should avoid project delays and assure Federal-aid eligibility.

**Note:** If a Local Government starts property acquisition discussions with owners before NEPA document approval or appraisal completion a violation of Federal-aid regulations will occur resulting in Federal-aid eligibility termination. Termination of Federal-aid eligibility will occur at any time by the FHWA when a LG violates requirements of 49 CFR 24, 23 CFR 710 or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

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### 8.3 Right of Way References

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- Federal Highway Administration Real Estate Division: The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act)  
[https://www.fhwa.dot.gov/real\\_estate/uniform\\_act/](https://www.fhwa.dot.gov/real_estate/uniform_act/)
- The Acquisition Guide for Local Public Agencies and Sponsors is at website:  
[Local Public Sponsors Manual \(ga.gov\)](#)



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## Chapter 9. Utility and Railroad Responsibilities

### 9.1 Overview of Local Government (LG) Utility and Railroad Responsibilities

The GDOT District Utilities Manager is the primary point of contact for the LG for all activities related to utilities. The GDOT railroad point of contact for the LG is the GDOT Utilities Railroad Liaison Manager in the State Office of Utilities. The LG is responsible for all arrangements with the owners of affected facilities for their protection, relocation or removal. The LG must accomplish this in accordance with GDOT policy and procedure for those facilities located within the limits of work. The LG will meet the requirements of the current edition of the GDOT Utilities Accommodation Policy and Standards Manual (UAM), to ensure encroachments are permitted and meet all conditions of existing agreements. The LG will follow the Federal Code of Regulations 23 CFR 645 & 646 and provide the GDOT with Certification of Compliance prior to its request for FHWA construction fund authorization. The LG must follow the PDP (See Chapter 5).

Any rail crossings involved or impacted by the project must be evaluated for adequate crossing protection. Crossing protections are to be coordinated with GDOT Utilities Railroad Crossing Program Engineer in the State Office of Utilities, regardless of whether the railroad is located on system or off-system. Permission to work on railroad right of way must be obtained and coordinated with the Railroads which may extend project delivery for two years or more. Any utilities owned by the railroad will be covered in the Railroad Agreement. When a Railroad Agreement is required the LG will provide details of work by each party, Buy America Language, method of payment, maintenance responsibilities and Insurance.

Any utilities not owned by a Railroad will be processed as a utility relocation by the LG and utilities owned by the railroad will be covered in the Railroad Agreement. The GDOT District Utilities Manager will assist the LGs to ensure compliance with federal and state laws but it is solely the LG responsibility to obtain specific authorization, including GDOT certification to relocate utilities and obtain approval of all utility agreements before proceeding with advertising for bids. It is also the LG's responsibility to ensure all Utility and Railroad activities initiate and end with the GDOT District Utilities Office.

**NOTE:** Advertising any local administered project for bid prior to the FHWA construction authorized approval can result in the loss of all federal funding.

### 9.2 Local Government Overhead/Subsurface Utility Engineering (SUE) Responsibilities

The LG must make a decision as early as possible, but no later than the concept stage, whether or not to obtain a first submission directly from the affected utility owners (traditional method) or to obtain SUE services. The LG must consider using SUE services on any project where inaccurate underground utility information would negatively impact the project in a significant way. If the LG decides to obtain SUE services, then it will be their responsibility to notify the State Office of Utilities of their decision to ensure that SUE services were not already performed under a separate project. The SUE services will take the place of first submission to the Utility Owners.

The LG will refer to the UAM for details regarding the different Quality Levels of SUE and their uses or contact the State Subsurface Utilities Engineer in the State Office of Utilities for guidance. The

selected SUE consultant/sub-consultant must be prequalified in area class 5.08. The Department's SUE Scope of Services and other pertinent information can be found on the GDOT Office of Utilities Webpage.

The LG will be responsible for ensuring that the SUE information complies with the Department's Electronic Data Guidelines (EDG) and the Plan Presentation Guide (PPG). Also, when applicable, the LG must coordinate with the project's surveyor to ensure that there is no overlap in scope and to ensure that the SUE consultant/sub-consultant uses the proper survey controls.

The milestones set in the PDP must be adhered to by the LG to avoid delaying the project's schedule. The proper implementation of SUE in relation to the project's development is critical to maximizing its usefulness in utility conflict avoidance. Second submission to the Utility Owners follows the process detailed in Section 9.3 below regardless of whether the LG decides on obtaining First Submission to the Utility Owners or obtaining SUE services.

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### **9.3 Local Government Utility Coordination**

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#### **Existing Utility Identification**

After the project mapping database is completed and concurrent with the field surveys, the LG will prepare utility plan sheets of the database, the concept alignment and an outline of the agreed upon proposed limit(s) of survey. The utility sheets will include all mapping features provided to date including (but not required) existing right of way and any identified environmental resources. The designer should note the approximate project limits for both the mainline and the side roads. The project limits should, in general, be the same limits provided to the environmental resource team for their surveys. Utility plan sets along with the proper electronic files will be provided to the Utility Owner for their use as the first (1st) submission of utility plans to "mark up" the location of existing utilities within the project limits. In addition, the LG should request information about the condition (type, age, recent maintenance issues, etc.) of the facility, prior rights to R/W or easements and whether the utility company has any plans for replacement or upgrade. Upon return from the utility companies the LG should verify the information provided for completeness and accuracy. The District Utilities Office shall be copied on all correspondence.

#### **Preliminary Utility Relocation Design**

As preliminary design plans are developed, an interim submission for preliminary utility relocations may be requested from the utility companies in the same manner as the 1st submission. Once existing utility locations have been determined and confirmed within the project limits, the preliminary relocation design should provide enough information to make fundamental determinations of how the proposed utilities will impact environmental resources, bridges, stage construction and ROW acquisition. This submission should occur at a minimum ninety (90) days prior to the PFPR, prompting discussion of the impacts to Right-of-Way and environmental at the PFPR. Additionally, the ROW and Utility Acquisition Teams should conduct a Utility/Right-of-Way Coordination meeting after the PFPR. Discussion shall include, but not limited to:

- Review of Prior Rights
- Verification of Preliminary Relocation Design
- Adequate ROW/Easements to Accommodate Utilities

This information will need to be incorporated into the project plan set prior to a request for 2nd submission plans.

The plans shall include preliminary design elements including but not limited to: preliminary roadway and cross street plans, profiles, cross sections, preliminary staging plans, and all identified environmental resources. The interim submission will also include a request for updated relocation cost or a preliminary request to retain facilities in place.

Upon receipt of the markups, the LG should review to ensure the preliminary relocation design is consistent with the GDOT UAM and incorporated into the project plan set. This request is intended to provide preliminary relocation plans prior to PFPR. The District Utilities Office shall be copied on all correspondence.

### **Utility Relocation Plans**

The request for utility relocation plans, permits, and utility adjustment schedules, second submission for utility plans, must go to the respective utility owners for the verification of any changes since the 1<sup>st</sup> utility submission and incorporation of the final utility relocation information. The LG will send updated base plan sheets and/or electronic files to the Utility Owner as soon as the existing utility information has been plotted and the project's footprint is verified. This updated information will contain current construction plans with the plotted existing utility information, preliminary relocation, design, if applicable, drainage plans (including longitudinal drainage and drainage profiles) and erosion control plans, stage construction plans, approved bridge layouts with bent locations and footing sizes, wall locations with footing locations, ROW and easement lines, strain poles, overhead signs, and signal pole locations, cross sections, roadway profiles, and construction limits as set following the PFPR. The District Utilities Office shall be copied on all correspondence.

The final utility plans will be furnished to the District Utilities Manager no later than three months before the Final Field Plan Review (FFPR). The District Utility Office shall be copied on all correspondence.

***Refer to section 4.1.C.1 of the UAM, current edition***

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## **9.4 Utility Agreements**

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Utility Agreements are required on projects that involve a utility easement, utility right-of-way, or conflict with a utility that provide documentation showing "Prior Rights." The need for a utility agreement must be anticipated to avoid delaying the project. The LG Project Manager should check with the GDOT District Utilities Manager early in the preliminary design stage to ascertain the required information needed to furnish the utility owner in order that utility agreements can be negotiated. All utility agreements must be approved and signed before a project can be certified for letting. Utility Certification is required eleven (11) weeks at a minimum before a letting for all projects. The District Utilities Office shall receive an executed copy of all reimbursable agreement between the LG and the Utility Owner, as part of the Certification Package.

***Refer to section 4.2.F in the UAM, current edition.***

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## 9.5 Railroads

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The railroad coordination and the processing of railroad agreements can take several years. A permit, a railroad special provision and/or an agreement will be required with the Railroad if there is an encroachment of any kind on Railroad property. It is imperative that the crossing of any railroad or railroad ROW, and/or parallel encroachments be identified early to ensure adequate coordination. Railroad coordination may also be required for at grade crossings within 500 feet of the project limits. As early as the Concept Development Phase, the PM or the LG will notify the Utility Railroad Liaison Manager upon the recognition of any such railroad involvement. Any railroad coordination with the railroad is the responsibility of the LG and will be handled by the LG. The LG will provide the Railroad Liaison Manager a copy of the executed construction agreement between the LG and the Railroad.

All railroad agreements must be approved and signed before a project can be certified for letting. Certification is required a minimum of eleven (11) weeks prior to letting for all projects.

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## 9.6 Utility and Railroad Certifications

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The LG shall submit on municipal or county letterhead to the GDOT District Utilities Office the Utilities/Railroad Certification package. This information shall be submitted to the District Utilities Office no less than twenty-two (22) weeks prior to the letting. The required information is outlined below. The District Utilities Office will review the certification package for approval, and upon approval, make recommendation for Utility/Railroad Certification to the GDOT State Utilities Office at a minimum of fifteen (15) weeks prior to the letting. The GDOT State Utilities Office will submit the certification request to the Office of Engineering Services no later than eleven (11) weeks prior to letting.

**The Utility Certification Package shall include:**

### **Local Let Utility Certification Requirements FOR STATE ROUTES**

- Utility Certification Request Letter to GDOT DUM addressing “Status” for each Utility/Railroad Owner
- Existing and proposed Utilities shown on project plans for each utility facility within the project limits
- “No Facilities”, “No Cost”, or “No Contact” letter from each Utility Owner on their letterhead (when applicable)
- Permit Requirements (submitted thru **Georgia Utilities Permit System**)
  - Permits Data/Form 8413
  - Utility Adjustment Schedule (UAS)
  - NPDES Compliance Form
  - Cost Arrangement Letter
  - Project Plans

- Any Joint Use Agreements for traffic signal or ATMS work
- Executed Agreement(s) for utility/railroad reimbursement (Include “Buy America” clause)
- Approved Design Variance/Exception (if applicable)
- Executed Lighting Agreement

### Local Let Utility Certification Requirements FOR OFF-SYSTEM ROUTES

- Utility Certification Request Letter to GDOT DUM addressing “Status” for each Utility/Railroad owner
- Existing and proposed Utilities shown on project plans for each utility facility within the project limits
- “No Facilities”, “No Cost”, or “No Conflict” letter from each Utility Owner on their letterhead (if applicable)
- Utility Adjustment Schedule for each utility owner, if applicable
- Executed Agreement(s) for utility/railroad reimbursement (Include “Buy America” clause)

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## 9.7 Utility and Railroad Reimbursement

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In accordance to Titles 32-6-170 and 32-6-173, of the O.C.G.A., the Department will participate in the reimbursement of eligible costs of removing, adjusting, and relocating those facilities which are physically in place and in conflict with proposed construction and, where replacement is necessary, to the costs of replacement in-kind. That proportion of the costs representing improvement or betterment in a facility shall be excluded from the costs eligible for payment or participation by the Department. Provisions for reimbursement are detailed in Section 4.2 of the UAM.

The LG is responsible for submitting a detailed cost estimate to the District Utility Manager for review and approval. The estimate will indicate the case of which the project is eligible for reimbursement, the reimbursement terms; whether Lump Sum or Actual Cost, as well as the reimbursement percentage for each responsible party. The State Utilities Office (SUO) will draw up the agreement based upon the estimate and required utility work. The Agreement will be signed by both the Department and the LG.

The LG will receive a written letter of authorization from the SUO prior to beginning any relocation work. The letter of authorization for the Agreement describes the procedures for notifying the Department's representative prior to beginning relocation work so the work may be properly documented for payment and audit. GDOT is not responsible for any cost generated prior to authorization on construction agreements.

Costs of direct labor, materials, supplies, and equipment required to complete the adjustment or relocation, less salvage credit for any materials removed from the project and credits for any betterment not required by the highway project, are reimbursable. Eligible cost can be reviewed in 4.2.C. of the UAM.

The LG will be responsible for submitting invoices against the Preliminary Engineering or Construction Engineering executed Agreements to the SUO for cost associated with the relocation, removal or adjustment of the LGs facilities on GDOT projects. Invoices must be submitted within a year after work has been completed. The Department is not held liable for reimbursement of any invoices submitted a year after the relocation has been completed. Upon completion of a project, the LG must submit a final invoice, mirroring the cost estimate along with detailed supportive documentation (Actual Cost only); a breakdown of cost incurred which includes timesheets, receipts for equipment, materials etc. The Area Engineer with the District Utilities Office will confirm if work has been performed satisfactorily. Upon confirmation from the District Utilities Office, invoices will be processed for payment.

Reimbursements cannot be made for items that are not in the original Agreement or detailed estimate unless approved by the SUO. Any amendments to the scope that would cause changes in an approved estimate, must have the approval by SUO before moving forward with the work. If approval is given, the SUO will provide the LG with an Approval Allotment Request and Approval of Agreement Modification Letter.

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## Chapter 10. Construction Bidding Administration

### 10.1 Letting Responsibility

Projects will be let by GDOT and the submittal of all plans and information to the Department shall follow the PDP Chapter 7. Chapters 10, 11, 12 and 13 of the LAP Manual are only related to projects that are to be let by the Local Government as noted in Section 1.11 and 1.12. See the links below for guidance at a minimum on contract information, documents and provisions located on the LAP Manual webpage:

Local Letting Approval Form (LLAF)

<https://www.dot.ga.gov/PartnerSmart/Local/Documents/LAPManual/LocalLetApprovalForm.pdf>

A Standard Federal-Aid Contract for Locally Administered or Locally Let Projects

<http://www.dot.ga.gov/PartnerSmart/Local/Documents/StandardFederalAidContractPackage.pdf>

### 10.2 Construction Authorization by FHWA Is Always Required First

With the LG's completion of the Plan Development Process (PDP) as discussed in Chapter 7 found at <https://www.dot.ga.gov/GDOT/Pages/designmanualsguides.aspx>, the Project Manager will request the PS&E package from the LG. The following documents will be requested as part of the final PS&E package:

1. PS&E Package Checklist
  - a. Environmental Certification from the Office of Environmental Services
  - b. Right of Way Certification from the Office of Right of Way
  - c. Utilities/Railroad Certification from the State Utilities Office
  - d. ADA Compliance letter from City/County
  - e. Final Plans (one half-size set) with Quality Assurance (QA) letter from City/County
  - f. Final Designers Cost Estimate (2 copies) dated MM/DD/YYYY
  - g. Special Provision 108.08 and Special Provision 150.11 approved by the District Construction Office
  - h. Traffic Management Plan (if applicable)
  - i. Project Bid Proposal (include all Special Provisions in proposal) - See the Appendix B for the Bid Document Checklist for Local Let Projects
2. Bid Document Checklist which can be found at <https://www.dot.ga.gov/PartnerSmart/Local/Documents/LAPManual/BidChecklistforLAPProjects.pdf>

The final PS&E package shall be received and reviewed no later than 18 weeks prior to the letting.

At no later than 11 weeks prior to the letting, the Project Manager will submit the construction authorization request package to FHWA, which includes the PS&E package received from the LG. Upon approval of the request send to FHWA, the Project Manager will submit form 1625 to request construction fund authorization for the amount programmed in the STIP/TIP.

The GDOT Project Manager will forward all documents to the GDOT State Project Review Engineer for oversight compliance of Federal-aid procedures upon approval of the environmental, utility and right-of-way certifications.

1. The GDOT State Project Review Engineer confirms all certifications and executed utility agreements were received.
2. A FHWA Work Authorization Request for construction funding will then be prepared by the Office of Engineering Services.
3. FHWA reviews the PS&E package for compliance and provides final approval of the Federal construction fund authorization.

**Note:** The loss of Federal funding will result if the LG advertises their project prior to FHWA Construction Phase Authorization; or the project is not in the approved Statewide Transportation Improvement Program, or NEPA approvals did not follow Federal regulations or right-of-way activities were initiated before FHWA right-of-way authorization.

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### 10.3 The Local Government Bidding, Letting and Award Process

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The GDOT link “The Source” at <https://www.dot.ga.gov/GDOT/pages/TheSource.aspx> provides the LG with guidelines as the LG accepts its role representing the Department and FHWA as stewards of the Federal-aid process. In “The Source” General Provisions, Construction and Bridge Manual details are defined for the LG is to follow. The LG is required to follow the GDOT Letting schedule located at <https://www.dot.ga.gov/GDOT/pages/contractors.aspx> up to submission of all certifications.

#### General Provisions

Please refer to

<https://www.dot.ga.gov/PartnerSmart/Business/Source/specs/2021StandardSpecifications.pdf> for the specifications below.

- 101–Definition of Terms
- 102–Bidding Requirements and Conditions
- 103–Award and Execution of Contract
- 104–Scope of Work
- 105–Control of Work
- 106–Control of Materials
- 107–Legal Regulations and Responsibility to the Public
- 108–Prosecution and Progress
- 109–Measurement and Payment
- 148–Pilot Vehicles
- 149–Construction Layout
- 150–Traffic Control

The LG is responsible for complying with 23 CFR 633, 23 CFR 635.113, 23 CFR 635.114, and OCGA 32 before proceeding with the advertising, bidding, acceptance of sealed bids, public opening of the bids, review and award process. Bids not read must be identified and the reason for not reading the bid is required. All bidding contractors must be pre-qualified by GDOT.

“The Source” in Section 103 defines the award and execution of a contract. LGs must receive bonded document with contractor bids. The LG will submit all bids to the GDOT Project Manager for concurrence of an acceptable low bidder. The Project Manager will review the submittal to determine if bids are acceptable in accordance with 23 CFR 635.114 and OCGA 32. Once the low bid has been deemed acceptable the Project Manager will generate the Local Let Construction Agreement.

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#### 10.4 Local Administered Project Construction Agreement

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The Project Manager will prepare and coordinate the Local Let Construction Agreement using the selected low bid. The Local Let Construction Agreement template is located in Appendix A. **All contracts shall be unit price contracts unless special permission is granted to use lump sum contracts in writing by GDOT. For special items, the locals can use extra work pay items 004-0003 through 004-0098 which allows for description and measure of payment entries.** Once the Local Let Construction Agreement is fully executed, the Project Manager will forward to the Office of Financial Management (OFM), the contractor’s name, actual let date, and the bid award amount. The State Construction Office will create a Contract ID number and provide to the Project Manager.

After the Local Let Construction Agreement has been executed, the District Construction Office will issue to the LG a written “Notice to Proceed” to Construction that will include the GDOT Contract ID number for the project. It is the LG’s responsibility to obtain the National Pollutant Discharge Elimination System (NPDES) permit from the Georgia Environmental Protection Division (EPD) prior to beginning construction. The LG will provide a copy of the final plans and the executed construction contract between the LG and the contractor to the District Construction Office and the Project Manager.

When the LG accepts predetermined GDOT level of supervisory responsibility to administer a Federal funded project, the LG becomes the Contract Administrator. The LG accepts the duties and responsibilities for Federal-aid stewardship as required in the FHWA Contracts Administration Core Manual at <http://www.fhwa.dot.gov/programadmin/contracts/cacc.pdf> where FHWA Form 1273, “Required Contract Provisions Federal-aid Construction Contracts” is also found.

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#### 10.5 Formal Notification to the District Construction Office

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After the project has been advertised for construction and before bids are taken, the Project Manager will confer with the District Construction Engineer to provide formal notification to the district offices of LPA’s project approval and determine if a transition conference should be held.

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## Chapter 11. Construction Administration

### 11.1 Preconstruction Conference

It is the responsibility of the LG to follow the guidelines in the Utility Accommodation Policy & Standards Manual (UAM), Construction Manual, Bridge Manual, and Sampling, Testing & Inspection Manual (STI) posted on the various GDOT websites. Among the Local Government Let project responsibilities is the requirement to conduct a preconstruction conference after the Local Let project is awarded and before construction begins. The conference shall be led by the Project Manager as prescribed in the LG certification. A checklist for conducting a “Preconstruction Conference” is available from the GDOT Area Manager. The LG Full Time Employee in charge or LG Project Manager will provide the time and place for the preconstruction conference with the Contractor, Subcontractors, GDOT Project Manager, and invite Representatives from utility and railroads, OMAT Testing Management Operations Supervisor, and other interested parties to the conference.

Items to be discussed at the Preconstruction Conference will be:

- the construction plans
- all environmental commitments
- right-of-way issues, utility issues
- any other special concerns
- Federal and state construction requirements
- EEO
- DBE
- contractor training requirements
- project construction schedule
- construction checklist
- materials documentation and certification
- Quality Assurance (QA) and QA agreement
- labor and source reporting requirements
- public safety requirements
- maintenance

All attending the Preconstruction Conference and any interested party will be provided copies of the minutes of the conference by the LG employee responsible for conducting the conference.

The GDOT Standard Specifications for Construction and Construction Manual are provided at:

<https://www.dot.ga.gov/GDOT/Pages/TheSource.aspx>

### 11.2 Quality Assurance

It is the LG’s responsibility to assure all materials, standards and contract specifications are in compliance with the provisions of the contract awarded. An experienced GDOT Laboratory Supervisor and GDOT Construction Manager will assist the LG with understanding their material source approval responsibilities, rejection of materials procedures, batch material delivery ticket

acceptance and retention procedures, materials sample and tests assurance procedures, and independent assurance testing procedures.

The LG must inform the Contractor that they must use suppliers on the Qualified Products List (QPL) and the Contractor must notify the QPL suppliers that they are supplying material for a GDOT project and provide a GDOT project number.

Requirements for LG employees or LG consultant to perform construction quality assurance testing:

- Quality Assurance must be done in accordance with 23 CFR 637 and GDOT's Sampling, Testing and Inspection Manual. An OMAT-LAP form (latest version) is required to be submitted and approved for every project. The form lists the specific names, employer and certification number of the certified technicians that will be performing sampling and testing on the project. The following completed test forms/reports, but not limited, must be kept in the LG project files, if applicable to the project:
  1. OMAT-LAP form (Materials Testing & Quality Assurance)
  2. OMR-TM-150 form (Asphaltic Concrete Compaction Report)
  3. OMR-TM-151 form (Calibration of Nuclear Gauge to Asphalt Cores)
  4. OMR-TM-158 form (Nuclear Gauge Calibration to Graded Aggregate Base)
  5. DOT-319 form (Concrete Test Report)
  6. DOT-553 form (Roadway Compaction Report)
- If LG performs the QA: LG lab must be accredited by the AASHTO Accreditation Program and individual employees and equipment performing testing must be certified by GDOT.
- Consultants must be prequalified on a project-by-project basis as follows:
  - Acceptance testing:
    - Consultants performing lab work must be prequalified in Area Class 604a and must be accredited by the AASHTO Accreditation Program in the appropriate lab tests.
    - Consultants performing field sampling and roadway testing must be qualified in Area Class 604b and GDOT certified in the appropriate field tests (RTT or Concrete Certification).
    - Consultants performing both roadway and laboratory testing must be prequalified in both Area Class 604a and 604b and meet all requirements above.
- GDOT specifications require the Contractor to perform mixture Acceptance testing at the asphalt plant and verification testing for compaction results from the roadway. Verification testing (VT) will be performed by GDOT at the asphalt plants.
  - Notify the Office of Materials and Testing 30 days before the start of the asphalt paving on the project. VT will be done for the project as part of GDOT regular plant reviews. Refer to the GDOT Construction Manual for materials acceptance.
- Independent Assurance (IA) will be performed by GDOT based on the specific certified testers that are submitted on the OMAT-LAP form. LG Project Managers will ensure that all

materials testing personnel are listed on the OMAT-LAP form. Any changes to the personnel on this list should be communicated immediately to OMAT for review and approval.

- Submit all test data electronically at least weekly to GDOT using GDOT's Site Manager
- A quarterly (January, April, July, and October) materials checklist is required to be completed along with **all** attachments and sent to GDOT for every project. A final materials checklist is required to be completed and sent to GDOT at the completion of the project. See GDOT Construction Manual for more details. The LG must cooperate with GDOT by providing any necessary documentation for the completion of the Materials Certificate. The LG Project Manager will ensure that all material deficiencies are noted on the Materials Checklist. A written explanation of these deficiencies on the form will include mitigating, correcting and punitive measures taken.

Control of materials is an oversight responsibility for the LG. Specific requirements are detailed in GDOT's "The Source" STI tab.

<https://www.dot.ga.gov/GDOT/pages/TheSourceSamplingTestingInspection.aspx>

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### 11.3 Measurements and Payments

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The LG will be responsible for progress payments in accordance with Section 109 of the Standard Specifications. <https://www.dot.ga.gov/GDOT/pages/TheSource.aspx>

The LG is responsible for submitting any contract modifications to the GDOT Area Manager prior to execution for review and approval. Contract modifications can include but not limited to zero (0) cost modifications, time extensions, allotment request, and/or specification changes. All contract modifications require GDOT approval, whether the costs are to be paid for by Federal-Aid, State, or Local funds. At a minimum, contract modifications involving cost changes require a fair detailed estimate to be completed prior to receiving the contractor's estimate for additional work.

**Note:** Holding retainage is not permitted and is in direct violation of the Prompt Payment Policy outlined in the DBE guidelines of the FHWA/GDOT Oversight agreement. For additional information, please reference 49 CFR 26.26 and GDOT specification 109.07H.

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### 11.4 Reviews and Audits for Construction Manual Compliance

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The LG will be responsible for administering the project in accordance with the GDOT Construction Manual. The GDOT Construction Manual discusses DBE requirements, diaries, document control logs, project record reviews, engineering auditing, payrolls, project records, utility, railroad, utility and railroad agreements, billing, source-supporting-materials documents and other applicable items.

The Engineering Audit Review shall confirm compliance with contract requirements, including but not limited to federal and state reporting obligations, individual item measurements and payment calculations, and material certification sources. An audit report must be conducted and compiled after each review and resolved within 30 days by the GDOT Area Manager.



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## 11.5 Other Control of Work and Construction Legal Regulations

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The LG assumes the responsibilities for the construction of the project in accordance with the Standard Specifications.

<https://www.dot.ga.gov/GDOT/pages/TheSource.aspx>

### Standard Specifications: General Provisions

Please refer to

<https://www.dot.ga.gov/PartnerSmart/Business/Source/specs/2021StandardSpecifications.pdf> for the specifications below.

- 101–Definition of Terms
- 102–Bidding Requirements and Conditions
- 103–Award and Execution of Contract
- 104–Scope of Work
- 105–Control of Work
- 106–Control of Materials
- 107–Legal Regulations and Responsibility to the Public
- 108–Prosecution and Progress
- 109–Measurement and Payment
- 148–Pilot Vehicles
- 149–Construction Layout
- 150–Traffic Control

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## Chapter 12. Construction Complete

### 12.1 Contractor's Notice of Project Nearing Completion

The contractor is to notify the LG when the project is 90- 120 days from completion. The LG staff in responsible charge and the GDOT Construction Manager will conduct a semi-final field inspection to confirm that status.

### 12.2 Final Inspection and Final Acceptance

It is the LG's responsibility to schedule a Closing Conference 60 days prior to the projected completion of the project. The GDOT Construction Manager, other interested parties and the LG staff in responsible charge of the project will meet with the contractor. The Closing Conference will discuss all outstanding items of work; final reports needed and provide the contractor with a detailed corrections list, list of information needed for Material Certification, a list of final reports and other paperwork required for acceptance of the project.

It is the contractor's responsibility to notify the LG in writing of substantial completion, including the actions completed on the corrections list. The LG will review the project, verify contractor's statement of completion and notify the GDOT Construction Manager.

When all work is complete, the LG will notify the GDOT Construction Manager that the local administered project is ready for Final Inspection. The LG will notify the GDOT Construction Manager and the contractor when Final Inspection is scheduled so they can attend. GDOT Construction Manager will invite necessary staff from GDOT.

Final Acceptance is the responsibility of the GDOT Construction Manager. FHWA reserves the right to conduct final inspection and final acceptance when the scope of work determines it necessary.

The Specification - Section 105.16 details additional information related to final inspections.

<https://www.dot.ga.gov/PartnerSmart/Business/Source/specs/2021StandardSpecifications.pdf>

#### Standard Specifications: General Provisions

- 101–Definition of Terms
- 105–Control of Work
- 106–Control of Materials
- 107–Legal Regulations and Responsibility to the Public
- 108–Prosecution and Progress
- 109–Measurement and Payment

### 12.3 Final Audit

The LG will complete the following activities prior to requesting GDOT to conduct a final audit. The following items are not all-inclusive for every local administered project.

1. Verify that all project records are organized per GDOT policies.
2. Check all LIN Item Folders:

- a. Verify that all inspector reports are accounted for and complete.
  - b. Verify the cumulative total-to-date on the last report matches the Final Construction Report.
  - c. Complete zero quantity Inspectors Reports for items not used.
3. Check Approved Supplemental Agreements (SA):
- a. Verify that the Approved Supplemental Agreements folder contains a copy of all approved Supplemental Agreements.
  - b. Verify that all Supplemental Agreement items used have inspector reports to cover payment and that file folders are set up for each Item.
  - c. Verify all Supplemental Agreements are paid.
  - d. If Supplemental Agreements were not used:
    - Attach a note to approved copy of SA giving reasons for not using SA.
    - If minor items are not used, the above does not need to be done.
4. Verify that files contain approved documentation on all Subcontractors.
5. Verify that payrolls have been received covering the period of time that the Contractor and all Subcontractors worked on the project.
6. Verify that the Final DBE report has been received from the Contractor.
- a. Check Final DBE report to verify that all subcontractors listed were approved as DBE's for this Contract.
  - b. Sign Final DBE report.
7. Verify that the Document Control Log and the Correspondence files are up-to-date and organized.
8. Verify that all diaries are accounted for and up to date. (See "The Source," Construction Manual, General Provisions, Section 3 - Diaries for information that is required in diaries).
9. Verify that all dates are entered on the Contract Status Time Report and correct.
10. Verify that all "As-built" plans up to date.
11. Verify that Earthwork Items have sufficient documentation to support final payment.
12. Verify that sufficient funds are available for any items that will be paid on the Final Construction Report.
13. Complete the Final Package Checklist (DOT 733).

If any of the above items have discrepancies, they must be resolved before requesting a Final Audit. Once all the items have been resolved the Auditor will complete the Final Audit.

The Final Audit can be completed without the Materials Certificate being received but will be noted on the Final Audit. The project cannot be closed out until the Materials Certificate is received from GDOT.

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## 12.4 Final Payment

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Procedures for making final payments:

1. Within 4 weeks from the date that the Project has reported Corrective List Complete, the LG will submit the Final Package to the GDOT Construction Manager. This time may be extended for extenuating circumstances.
2. On resurfacing and asphalt widening Projects, the LG will submit the final package to the GDOT Construction Manager within two weeks of completion of the Corrective List.
3. The GDOT Construction Manager will notify, by e-mail, The Office of Construction <https://www.dot.ga.gov/GDOT/pages/contractors.aspx> auditor that the project is ready for Final Audit. This request comes only after the GDOT Construction Manager has thoroughly reviewed the project records using the Project Checklist for Requesting a Final Audit (See the Construction Manual, Project Checklist Prior to Requesting a Final Audit Section 109.08.C in The Source on the GDOT website.
4. Local Government will retain all records, once Final Acceptance and the Final Audit have been completed.
5. Immediately on Final Acceptance, the LG will send final quantities to the Contractor by Registered or Certified mail.
  - a. If the Contractor accepts the Statement or has no questions within 20 days, the LG will forward the Final Package to the GDOT Construction Manager. The GDOT Construction Manager will prepare the package for submittal to the Office of Construction. <https://www.dot.ga.gov/GDOT/pages/contractors.aspx>
  - b. If the Contractor questions the Statement within 20 days, the LG will make any necessary adjustments or refers all disputes through the GDOT Construction Manager to the Chief Engineer for final resolution.
6. The Chief Engineer will sign the Final Statement to certify that it is correct and will submit it to the Treasurer for payment.
7. The Treasurer will send the Contractor the Department's standard release form by Registered or Certified mail.
  - a. If the Contractor signs the release, the Treasurer will make the final payment to the Contractor and its Surety.
  - b. If the Contractor fails to act within 120 days, then:

The Contractor is declared in default and is barred from recovery of claim.

The Surety will sign the release form.

The Treasurer will make final payment to the Surety.
  - c. If the Contractor files a lawsuit within 120 days, then:

The Construction Claims Office will initiate litigation and will begin final adjudication.

When the lawsuit is resolved, the Treasurer will make final payment.

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## Chapter 13. Records Retention and Project Maintenance

### 13.1 Records Retention by the Local Government

For records retention refer to GDOT website “The Source,” Construction Manual, Construction General Information, Section 11.0.

State law requires records for Projects to be retained for 7 years after final payment to the Contractor. GDOT administratively retains certain records an additional 13 years.

The [Federal Highway Administration \(FHWA\)](#) requires the LG to keep Project records on Federal-Aid Projects for 3 years after final reimbursement to GDOT. This regulation includes all Contracts and utility and railroad agreements on a Project.

To meet State Law record retention requirements, the LG will keep records on all contracts, utility and railroad agreements on a Federal-Aid project for a period of 7 years after the LG receives a letter from the GDOT Office of General Accounting stating that they have made final payment of Federal funds to the LG on the final statement submitted for the Project.

When a single Contract is completed, the LG will certify to the GDOT Project Manager that all records, source documents, and the final statement or Construction Report will be properly retained by them and will maintain those records for 7 years.

When the 7-year record retention period expires, the LG will submit diaries (Contract and Inspector) and Inspector’s Pay Item Reports to the Records Management Office in the GDOT General Office (Atlanta). The GDOT General Office will transfer these records to the State Records Center for an additional 13-year retention period. If GDOT General Office determines that these records will not be submitted to the Records Management Office at the end of 7 years, these records may be destroyed.

### 13.2 Maintaining the Federal Investment

The LG, by accepting Federal funds, agrees to maintenance requirements of 23 USC 116 and it shall be included in the Maintenance Agreement. Federal regulations provide:

- (a) It shall be the duty of the State transportation department to maintain, or cause to be maintained, any project constructed under the provisions of this chapter or constructed under the provisions of prior Acts. The State's obligation to the United States to maintain any such project shall cease when it no longer constitutes a part of a Federal-aid system.*
- (b) In any State wherein the State transportation department is without legal authority to maintain a project constructed on the Federal-aid secondary system, or within a municipality, such highway (1) department shall enter into a formal agreement for its maintenance with the appropriate officials of the county or municipality in which such project is located.*
- (c) If at any time the Secretary shall find that any project constructed under the provisions of this chapter, or constructed under the provisions of prior Acts, is not being properly maintained, he shall call such fact to the attention of the State transportation department. If, within ninety days after receipt of such notice, such project has not been put in proper*



*condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which such project is located, whichever the Secretary deems most appropriate, until such project shall have been put in proper condition of maintenance.*

- (d) *Preventive Maintenance. - A preventive maintenance activity shall be eligible for Federal assistance under this title if the State demonstrates to the satisfaction of the Secretary that the activity is a cost-effective means of extending the useful life of a Federal-aid highway.*

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### **13.3 Periodic Reviews by FHWA**

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The FHWA will conduct periodic reviews of federally funded projects administered by LGs. The GDOT Project Manager will be notified by FHWA when any maintenance related problems are found in their review. The GDOT Project Manager will contact the LG to schedule a meeting to discuss the actions that the LG will take to address the maintenance deficiencies.

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### **13.4 Maintenance and Inspection of Bridges**

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GDOT is responsible for inspection of bridges in the State of Georgia, both on and off the State Highway System. Each LG will be notified by GDOT of all deficient bridges under their jurisdiction. The LG should utilize this deficient bridge list for their local priority of project determinations. It is the responsibility of the jurisdiction to post load limits signs or close bridges based on the GDOT bridge inspection reports and the deficient bridge list.

## Appendix A. GDOT Local LET Construction Contract & Commercially Useful Function Inspections

### GDOT

### Local Let Construction Contract Template

Revision index

Date of revision	Revision made	By Office	Reason
2012-Oct-03	Removed Appendix B, Lower Tier Contractor Certification Regarding Debarment, Suspension, and Other Responsibility Matters	Program Delivery	Required signature of sub-contractors prior to award of project
2013-Aug-27	Updated FHWA 1273 Form	Program Delivery	Updated by Federal Highway Administration
2013-Nov-07	Updated Article I, Paragraph 7 - Compliance	Program Delivery	Added verbiage for compliance with "Current Edition" for both Standard Specifications & Supplemental Specifications

**Instructions: Replace highlighted text with project specific information, review entire template for changes applicable to specific project. Remove this page prior to routing for signatures.**

CONSTRUCTION AGREEMENT

Between

DEPARTMENT OF TRANSPORTATION

STATE OF GEORGIA

and

**LOCAL GOVERNMENT**

This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20XX, by and between the DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia, hereinafter called the "DEPARTMENT", and **LOCAL GOVERNMENT, GEORGIA**, hereinafter called the "SPONSOR."

WHEREAS, the SPONSOR has been approved by the DEPARTMENT to carry out a Federal-aid Project which consists of the construction of Project **PROJECT NUMBER**, P.I. **XXXXXX**, hereinafter referred to as the "PROJECT"; and

WHEREAS, the DEPARTMENT is authorized to receive federal funding for Projects for Georgia pursuant to provisions of 23 U.S.C. Section 133(b)(8); and

WHEREAS, the PROJECT is expected to positively impact the quality of transportation in the State of Georgia; and

WHEREAS, the DEPARTMENT desires to participate with the SPONSOR in the implementation of the PROJECT; and

WHEREAS, the SPONSOR has represented to the DEPARTMENT that it has the authority to receive and expend federal funds for the purpose of this PROJECT and is qualified and experienced to provide such services necessary for the construction of the PROJECT and the DEPARTMENT has relied upon such representations; and

WHEREAS, under Section 32 2 2(a)(7) of the Official Code of Georgia Annotated, the DEPARTMENT is authorized to participate in such an undertaking:

NOW, THEREFORE, in consideration of the mutual promises and covenant contained herein, it is agreed by and between the DEPARTMENT and the SPONSOR THAT:

## ARTICLE I

## SCOPE AND PROCEDURE

The SCOPE AND PROCEDURE for this PROJECT shall be **project description**, as set forth in Exhibit A, WORK PLAN, which is further defined by the PROJECT estimate sheets ("PROJECT PLANS") on file with the DEPARTMENT and the SPONSOR and referenced as if attached hereto and incorporated as if fully set forth herein.

The SPONSOR shall be responsible for assuring that the PROJECT will be economically feasible and based upon sound engineering principles, meet American Association of State Highway and Transportation Officials ("AASHTO") Guidelines and will be sensitive to ecological, environmental and archaeological issues.

The WORK PLAN sets out the scope of work for the PROJECT. It is understood and agreed that the DEPARTMENT shall participate only in the PROJECT as specified in Exhibit A, WORK PLAN.

The SPONSOR shall work with the Georgia Department of Transportation District **X** to advise the SPONSOR on the WORK PLAN and provide guidance during implementation of the PROJECT.

During the development of the PROJECT the SPONSOR has taken into consideration, as applicable, the DEPARTMENT'S Standard Specifications for the Construction of Roads and Bridges, AASHTO guidelines; FHWA guidelines; compliance with the U.S. Secretary of the Interior "Standards and Guidelines, Archaeology and Historic Preservation"; compliance with Section 106 of the National Historic Preservation Act of 1966 and with Section 4(f) of the US DOT Act of 1966; compliance with the Archaeology and Historic Preservation Act of 1974; compliance with the Archaeological Resources Protection Act of 1979 and with the Native American Graves Protection and Repatriation Act, the Georgia Abandoned Cemeteries and Burial Grounds Act of 1991; compliance with the DEPARTMENT's Scenic Byways Designation and Management Program, and with the American Society of Landscape Architect Guidelines; compliance with the Outdoor Advertising Requirements as outlined in the Official Code of Georgia Annotated, Section 32 6 70 et.seq. and other standards and guidelines as may be applicable to the PROJECT.

The SPONSOR has acquired rights of way, if required, and related services for the PROJECT in accordance with State and Federal Laws, DEPARTMENT's Right of Way Procedure Manual, Federal Regulations and particularly Title 23 and 49 of the Code of Federal Regulations ("CFR"), as amended. The SPONSOR further acknowledges that no acquisition of rights of way occurred until all applicable archaeological, environmental and historical preservation clearances were approved.

The SPONSOR shall ensure that all contracts as well as any subcontracts for the construction of the PROJECT shall comply with the Federal and State legal requirements imposed on the DEPARTMENT and any amendments thereto. The SPONSOR is required and does agree to abide by those provisions governing the DEPARTMENT's authority to contract, specifically, but not limited to Sections 32 2 60 through 32 2 77 of the Official Code of Georgia Annotated; the DEPARTMENT's Rules and Regulations governing the Prequalification of Prospective Bidders, Chapter 672 5; and the DEPARTMENT's "Standard Specifications", Current Edition; "Supplemental

Specifications Book”, current edition; and any Supplemental Specifications and Special Provisions as applicable for the PROJECT.

The SPONSOR further agrees to comply with and shall require the compliance and physical incorporation of Federal Form FHWA 1273 into all contracts or subcontracts for construction, as attached hereto and incorporated herein as Exhibit B, Terms and Conditions.

## ARTICLE II

### COVENANTS AGAINST CONTINGENT FEES

The SPONSOR shall comply with all relevant requirements of Federal, State and local laws including but not limited to those applicable requirements as outlined in Exhibit B, TERMS AND CONDITIONS. The SPONSOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the SPONSOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the SPONSOR, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the DEPARTMENT shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

## ARTICLE III

### REVIEW OF WORK

Authorized representatives of the DEPARTMENT and the Federal Highway Administration, ("FHWA"), may at all reasonable times review and inspect the activities and data collected under the terms of this Agreement and amendments thereto, including but not limited to, all reports, drawings, studies, specifications, estimates, maps, and computations, prepared by or for the SPONSOR. The DEPARTMENT reserves the right for reviews and acceptance on the part of effected public agencies, railroads and utilities insofar as the interest of each is concerned.

Acceptance shall not relieve the SPONSOR of its professional obligation to correct, at its expense, any of its errors in the work. The DEPARTMENT's review recommendations shall be incorporated into the work activities of the SPONSOR..

## ARTICLE IV

### TIME OF PERFORMANCE

TIME IS OF THE ESSENCE IN THIS AGREEMENT. The SPONSOR shall perform its responsibilities for the PROJECT, commencing on receipt of written "Notice to Proceed" from the DEPARTMENT, shall complete the Project no later than **XX** Calendar Days after receipt of the written "Notice to Proceed"(based on the construction time). The work shall be carried on in

accordance with the schedule attached to this Agreement as "Exhibit C", WORK SCHEDULE, with that unforeseen events may make necessary some minor variations in that schedule.

The work shall be carried on expeditiously, it being understood, however, that this Agreement may be extended or continued in force by mutual consent of the parties and evidenced by a written amendment thereto.

## ARTICLE V

### RESPONSIBILITY FOR CLAIMS AND LIABILITY

The SPONSOR shall, to the extent permitted by law, be responsible for any and all damages to property or persons and shall save harmless the DEPARTMENT, its officers, agents and employees from all suits, claims, actions or damages of any nature whatsoever resulting from the negligence of the SPONSOR in the performance of the work under this Agreement.

It is understood by the SPONSOR that claims, damages, losses, and expenses may include monetary claims made by the construction contractor for the PROJECT, and its related facilities, that are a result of the SPONSOR's negligence or improper representation in the plans.

The SPONSOR shall ensure that the provisions of this Article are included in all contracts and subcontracts.

These indemnities shall not be limited by reason of any insurance coverage held by the SPONSOR or the SPONSOR's contractors or subcontractors.

## ARTICLE VI

### INSURANCE

Prior to beginning work, the SPONSOR shall obtain and where applicable cause its subcontractors to obtain and furnish certificates to the DEPARTMENT for the following minimum amounts of insurance:

- A. Workmen's Compensation Insurance in accordance with the laws of the State of Georgia.
- B. Public Liability Insurance in an amount of not less than one hundred thousand dollars (\$100,000) for injuries, including those resulting in death to any one person, and in an amount of not less than three hundred thousand dollars (\$300,000) on an account of any one occurrence.
- C. Property Damage Insurance in an amount of not less than fifty thousand dollars (\$50,000) from damages on account of any occurrence, with an aggregate limit of one hundred thousand dollars (\$100,000).
- D. Valuable Papers Insurance in an amount sufficient to assure the restoration of any plans, drawings, field notes, or other similar data relating to the work covered by the PROJECT.

Insurance shall be maintained in full force and effect during the life of the Agreement and until final completion of the PROJECT.

## ARTICLE VII

## COMPENSATION AND PAYMENT

It is agreed that the compensation hereinafter specified includes both direct and indirect costs chargeable to the PROJECT under generally accepted accounting principles and as allowed in the Federal Acquisition Regulations Subpart 31.6 and not prohibited by the Laws of the State of Georgia.

It is understood and agreed that the total estimated construction cost of the PROJECT as outlined in this Article and as shown in Exhibit "D", BUDGET ESTIMATE, attached hereto and incorporated as if fully set out herein, is **Low Bid amount written out X dollars and Y cents (\$000,000.00)**. The total estimated cost of the PROJECT to be financed using FEDERAL program funds through the Georgia Department of Transportation is **Federal/State Share written out X dollars and Y cents (\$000,000.00)**, which is the total state/federal contribution to the PROJECT **(80% of the overall bid, if locals provide match "OR" STIP project cap)** and is the maximum amount of the DEPARTMENT's obligation. The approved PROJECT budget shall include any claims by the SPONSOR for all costs incurred by the SPONSOR in the conduct of the entire scope of work for the PROJECT.

The SPONSOR shall be solely responsible for any and all amounts in excess of the state contribution. In no event shall the Federal contribution of the project exceed **Federal/State Share written out X dollars and Y cents (\$000,000.00)**, which is the DEPARTMENT'S maximum obligation.

It is understood and agreed that nothing in the foregoing shall prevent an adjustment of the estimate of the PROJECT costs, provided that the DEPARTMENT's maximum obligation under this Agreement is not exceeded and that the original intent of the PROJECT is not substantially altered from the approved PROJECT. In order to adjust said budget estimate, it is also understood that the SPONSOR shall request any and all budget changes in writing and that the DEPARTMENT shall approve or disapprove the requested budget estimate change in writing.

The SPONSOR shall submit to the DEPARTMENT monthly reports of the PROJECT's progress to include a report on what was accomplished during the month, anticipated work to be done during the next month and any problems encountered or anticipated. Payment on account of the above fee will be made monthly on the basis of calendar months, in proportion to the percentage of the work completed for each phase of work. Payments shall be made after approval of a certified voucher from the SPONSOR. Upon the basis of its review of such vouchers, the DEPARTMENT shall, at the request of the SPONSOR, make payment to the SPONSOR as the work progresses, but not more often than once a month. Should the work for the PROJECT begin within any one month, the first voucher shall cover the partial period from the beginning date of the work through the last date of the month in which it began. The vouchers shall be numbered consecutively and subsequent vouchers submitted each month until the work is completed. Payment will be made in the amount of sums earned less previous partial payments. The final invoice shall reflect the actual cost of work accomplished by the SPONSOR under the terms of this Agreement, and shall be the basis for final payment.

No expense for travel shall be an allowable expense for the SPONSOR under this Agreement unless such travel is listed in the approved PROJECT budget submitted by the SPONSOR to the DEPARTMENT. In addition, budgeted costs for travel shall be limited to the

amount included in the approved PROJECT budget, unless prior DEPARTMENT approval is obtained for increasing such amount.

Should the work under this Agreement be terminated by the DEPARTMENT, pursuant to the provisions of ARTICLE XIV, the SPONSOR shall be paid based upon the percentage of work completed at the point of termination, notwithstanding any just claims by the SPONSOR.

#### ARTICLE VIII

#### FINAL PAYMENT

IT IS FURTHER AGREED that upon completion of the work by the SPONSOR and acceptance by the DEPARTMENT of the work, including the receipt of any final written submission by the SPONSOR and a final statement of costs, the DEPARTMENT shall pay to the SPONSOR a sum equal to one hundred percent (100%) of the total compensation as set forth in all approved invoices, less the total of all previous partial payments, paid or in the process of payment.

The SPONSOR agrees that acceptance of this final payment shall be in full and final settlement of all claims arising against the DEPARTMENT for work done, materials furnished, costs incurred, or otherwise arising out of this Agreement and shall release the DEPARTMENT from any and all further claims of whatever nature, whether known or unknown, for and on account of said Agreement, and for any and all work done, and labor and materials furnished, in connection with the same.

The SPONSOR will allow examination and verification of costs by the DEPARTMENT'S representatives before final payment is made, in accordance with the provisions of Article XII, herein. If the DEPARTMENT'S examination of the contract cost records, as provided for in Article XII, results in unallowable expenses, the SPONSOR shall immediately be responsible for reimbursing the DEPARTMENT the full amount of such disallowed expenses.

#### ARTICLE IX

#### CONTINGENT INTEREST

The DEPARTMENT shall retain a contingent interest in the PROJECT for as long as there continues a Federal interest in the PROJECT as determined by the DEPARTMENT'S calculation of the economic life of the PROJECT. Based on the scope of work, as set forth in Exhibit A, WORK PLAN, the DEPARTMENT has determined the economic life of the PROJECT to be five years from the date of the PROJECT Final Acceptance.

#### ARTICLE X

#### RIGHT OF FIRST REFUSAL

A determination by the SPONSOR to sell or dispose of the PROJECT shall entitle the DEPARTMENT to the right of first refusal to purchase or lease the PROJECT at net liquidation value. Such right of first refusal shall be retained for as long as the DEPARTMENT holds a contingent interest in the PROJECT pursuant to Article IX of this Agreement.



Should the DEPARTMENT elect to purchase or lease the PROJECT at any time after completion of the PROJECT no compensation shall be provided for the value added as a result of the PROJECT.

## ARTICLE XI

### SUBSTANTIAL CHANGES

No material changes in the scope, character, complexity, or duration of the PROJECT from those required under the Agreement shall be allowed without the execution of a Supplemental Agreement between the DEPARTMENT and SPONSOR.

Minor changes in the work which do not involve increased compensation, extensions of time, or changes in the goals and objectives of the PROJECT, may be made by written notification of such change by either party with written approval by the other party.

## ARTICLE XII

### MAINTENANCE OF CONTRACT COST RECORDS

The SPONSOR shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the PROJECT and used in support of its proposal and shall make such material available at all reasonable times during the period of the Agreement, and for three years from the date of final payment under the Agreement, for inspection by the DEPARTMENT and any reviewing agencies, and copies thereof shall be furnished upon request. The SPONSOR agrees that the provisions of this Article shall be included in any Agreement it may make with any subcontractor, assignee, or transferee.

An Audit of the Agreement shall be provided by the SPONSOR. The audit shall be conducted by an independent accountant or accounting firm in accordance with audit requirements, 49 CFR 18.26 and OMB Circular 128 or any revision or supplement thereto. PROJECT costs shall be documented within the OMB Circular 128 audit. An audit shall be submitted to the DEPARTMENT in a timely manner in each of the SPONSOR's fiscal years for the period of the Agreement.

## ARTICLE XIII

### SUBLETTING, ASSIGNMENT, OR TRANSFER

It is understood by the parties to this Agreement that the work of the SPONSOR is considered personal by the DEPARTMENT. The SPONSOR agrees not to assign, sublet, or transfer any or all of its interest in this Agreement without prior written approval of the DEPARTMENT.

The DEPARTMENT reserves the right to review all subcontracts prepared in connection with the Agreement, and the SPONSOR agrees that it shall submit to the DEPARTMENT proposed subcontract documents together with sub contractor cost estimates for the DEPARTMENT's review and written concurrence in advance of their execution.

All subcontracts shall include the provisions set forth in this Agreement.

ARTICLE XIV

TERMINATION

The DEPARTMENT reserves the right to terminate this Agreement at any time for just cause, or for any cause upon 30 days written notice to the SPONSOR, notwithstanding any just claims by the SPONSOR for payment of services rendered prior to the date of termination.

It is understood by the parties hereto that should the DEPARTMENT terminate this Agreement prior to the completion of an element of work the SPONSOR shall be reimbursed for such work element based upon the percentage of work completed.

Failure to meet the time set for completion of an approved work authorization, may be considered just cause for termination of the Agreement.

ARTICLE XV

OWNERSHIP OF DOCUMENTS

The SPONSOR agrees that all reports, drawings, studies, specifications, survey notes, estimates, maps, computations, computer diskettes and printouts and other data prepared by or for it under the terms of this Agreement shall remain the property of the SPONSOR upon termination or completion of the work. The DEPARTMENT shall have the right to use the same without restriction or limitation and without additional compensation to the SPONSOR other than that provided for in this Agreement.

ARTICLE XVI

CONTRACT DISPUTES

This Agreement shall be deemed to have been executed in Fulton County, Georgia, and all questions of interpretation and construction shall be governed by the Laws of the State of Georgia.

ARTICLE XVII

COMPLIANCE WITH APPLICABLE LAWS

- A. The undersigned certify that the provisions of Section 45 10 20 through 45 10 28 of the Official Code of Georgia Annotated relating to Conflict of Interest and State employees and officials trading with the State have been complied with in full.
- B. IT IS FURTHER AGREED that the SPONSOR shall comply and shall require its subcontractors to comply with the regulations for COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, as amended, and 23 CFR 200, as stated in Exhibit E of this Agreement.
- C. IT IS FURTHER CERTIFIED that the provisions of Section 50 24 1 through 50 24 6 of the Official Code of Georgia Annotated relating to the "Drug Free Workplace Act" have been complied with in full, as stated in Exhibit F of this Agreement.



- D. The SPONSOR acknowledges and agrees that failure to complete appropriate certifications or the submission of a false certification shall result in the termination of this Agreement pursuant to the provisions of Article XIV.
- E. IT IS FURTHER AGREED that the SPONSOR shall subcontract a minimum of **DBE Amount written out** percent (**X%**) of the total amount of PROJECT funds to Disadvantaged Business Enterprise (DBE) as defined and provided for under the Federal Rules and Regulations 49 CFR parts 23 and 26. The SPONSOR shall ensure that DBE firms are certified with the DEPARTMENT's Equal Employment Opportunity Office. The SPONSOR shall submit to the DEPARTMENT for its review and concurrence, a copy of the proposed subcontract including the name of the DBE subcontractor.
- F. IT IS FURTHER AGREED that the SPONSOR shall comply and shall require its subcontractors to comply with all applicable requirements of the American with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 et.seq. and 49 U.S.C. 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791; and regulations and amendments thereto.
- G. IT IS FURTHER AGREED that the SPONSOR shall, and shall require its contractors and subcontractors to, comply with all applicable requirements of the Davis Bacon Act of 1931, 40 U.S.C. 276(a); as prescribed by 23 U.S.C. 113, for Federal aid highway projects, except roadways classified as local roads or rural minor collectors.
- H. IT IS FURTHER AGREED that the SPONSOR shall, and shall require its contractors and subcontractors to, comply with GA Code Title 25, Section 9, Georgia Utility Facility Protection Act, CALL BEFORE YOU DIG 1-800-282-7411.

The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, said parties have hereunto set their hands and affixed their seals the day and year above first written.

Recommended

Department of Transportation

**LOCAL GOVERNMENT**, Georgia

By: \_\_\_\_\_ (Seal)

By: \_\_\_\_\_ (Seal)

Commissioner

**Mayor/Chairperson**

Signed, sealed and delivered

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

**20XX**, in the presence of:

Attest:

\_\_\_\_\_

\_\_\_\_\_

Treasurer

Witness

\_\_\_\_\_

Notary Public

This Agreement, approved by



**LOCAL GOVERNMENT**, the \_\_\_\_\_  
day of \_\_\_\_\_, **20XX**

Attest:

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Federal Employer Identification Number

EXHIBITS

Exhibit A	Work Plan
Exhibit B	Required Contract Provisions Federal-Aid Construction Contracts
Exhibit C	Work Schedule
Exhibit D	Budget Estimate
Exhibit E	Civil Rights Compliance Certification
Exhibit F	Certification of Drug-Free Workplace

EXHIBIT A  
WORK PLAN

LOCAL GOVERNMENT

PROJECT NUMBER

P.I. No. XXXXXXXX

GENERAL DESCRIPTION OF WORK TO BE PERFORMED

Expanded project description.

## REQUIRED CONTRACT PROVISIONS

### FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Government wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

### ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

#### I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements

#### II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.



b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the

contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

**10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

**III. NONSEGREGATED FACILITIES**

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or

dresssing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

#### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

##### 1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a

prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing

work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## 2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## 3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked,

deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

**4. Apprentices and trainees**

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but

who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination:** debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages.**

In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

**3. Withholding for unpaid wages and liquidated damages.**

The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

**VI. SUBLETTING OR ASSIGNING THE CONTRACT**

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.



4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

**VII. SAFETY: ACCIDENT PREVENTION**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

**VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

**IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

**X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

**1. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies

available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

\* \* \* \* \*

**2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**2. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled

"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

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g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or an employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:
  - a. To the extent that qualified persons regularly residing in the area are not available.
  - b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.
  - c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.
2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.
3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.
4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.
5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.
6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT C  
WORK SCHEDULE

LOCAL GOVERNMENT

PROJECT NUMBER

P.I. No. XXXXXXXX

Project work to begin within six months of receiving the approved signed contract and Notice to Proceed.

Construction will be completed by date stated in the contract, Article IV, Time of Performance.

Award contract	DATE
Construction NTP	DATE
Substantial Completion	DATE
Final inspection	DATE
Punch List Complete	DATE

EXHIBIT D  
CONSTRUCTION COST

LOCAL GOVERNMENT

PROJECT NUMBER

P.I. No. XXXXXXXX

*INSERT LOW BID TAB BEHIND THIS PAGE (delete this note)*

## EXHIBIT E

## NOTICE TO CONTRACTORS

## COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

During the performance of this Agreement, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. Compliance with Regulations: The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations [also 49 CFR Part 27]), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, national origin, or sex in the selection and retention of subcontractors including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program, set forth in Appendix B of the Regulations. In addition, the Contractor will not participate either directly or indirectly in the discrimination prohibited by 23 CFR 710.405(b).
3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding or negotiations made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin or sex..
4. Information and Reports: The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the State Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
  - b. cancellation, termination or suspension of this contract, in whole or in part.



6. Incorporation of Provisions: The Contractor will include the provision of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interests of the State, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

EXHIBIT F  
CERTIFICATION OF SPONSOR  
DRUG-FREE WORKPLACE

I hereby certify that I am a principle and duly authorized representative of \_\_\_\_\_ whose address is \_\_\_\_\_ and it is also that:

1. The provisions of Section 50 24 1 through 50 24 6 of the Official Code of Georgia Annotated, relating to the "Drug Free Workplace Act" have been complied with in full; and,
2. A drug free workplace will be provided for the sponsor's employees during the performance of the contract; and,
3. Each subcontractor hired by the SPONSOR shall be required to ensure that the subcontractor's employees are provided a drug free workplace. The SPONSOR shall secure from that subcontractor the following written certification: "As part of the subcontracting agreement with \_\_\_\_\_, \_\_\_\_\_ certifies to the SPONSOR that a drug free workplace will be provided for the subcontractor's employees during the performance of this contract pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated Section 50 24 3"; and,
4. It is certified that the undersigned will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

APPENDICES

- Appendix A Sponsor Certification regarding Debarment, Suspension, and other Responsibility Matters
- Appendix B Certification of Department of Transportation State of Georgia
- Appendix C Certification of SPONSOR

APPENDIX A

**LOCAL GOVERNMENT**

CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
AND  
OTHER RESPONSIBILITY MATTERS

I hereby certify that I am the \_\_\_\_\_ and duly authorized representative of \_\_\_\_\_, whose address is \_\_\_\_\_, and I certify that I have read and understand the attached instructions and that to the best of my knowledge and belief the firm and its representatives:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by the Georgia Department of Transportation and by any Federal department or agency;
- 2) Have not within a three year period preceding this Agreement been convicted of or had a civil judgment rendered against the firm or its representatives for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State, or Local) transaction or contract under a public transaction in violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and,
- 4) Have not within a three year period preceding this Agreement had one or more public transaction (Federal, State or Local) terminated for cause or default.
- 5) That the firm will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction" as attached hereto and without motivation, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

I acknowledge that this certification is provided pursuant to Executive Order 12549 and 49 CFR Part 29 and that this firm agrees to abide by the rules and conditions set forth therein for any misrepresentation that would render this certification erroneous, including termination of this Agreement and other remedies available to the Georgia Department of Transportation and Federal Government.

I further acknowledge that this certificate is to be furnished to the Georgia Department of Transportation, in connection with this Agreement involving participation of Federal Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Seal)

## Instructions for Appendix A Certification

Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary  
Covered Transactions (SPONSORS)

1. By signing and submitting this contract the SPONSOR is providing the certification set out in Appendix A.
2. The inability of the SPONSOR to provide the certification required may not necessarily result in denial of participation in this covered transaction. The SPONSOR shall then submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the SPONSOR to furnish a certification or an explanation shall disqualify such person or firm from participation in this transaction.
3. The certification, Appendix A, is a material representation of fact upon which reliance is placed by the Department before entering into this transaction. If it is later determined that the SPONSOR knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause of default.
4. The SPONSOR shall provide immediate written notice to the Department if at any time the SPONSOR learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in these instructions and the certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
6. The SPONSOR agrees by submitting this proposal/contract that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person/firm who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the Department.
7. The SPONSOR further agrees by submitting this proposal/contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction," as provided by the Department without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A SPONSOR, in a covered transaction may rely upon a certification of a prospective participant in lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. The SPONSOR may decide the method and frequency by which it determines the eligibility of its principals.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by these instructions. The knowledge and information of SPONSOR is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if the SPONSOR in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction in addition to other remedies available to the Federal Government, the Georgia Department of Transportation may terminate this transaction for cause or default.

APPENDIX B  
CERTIFICATION OF DEPARTMENT OF TRANSPORTATION  
STATE OF GEORGIA

I hereby certify that I am the Commissioner of the Department of Transportation of the State of Georgia, and that the above consulting firm or his representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Agreement to:

- a. employ or retain, or agree to employ or retain, any firm or person, or
- b. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as here expressly stated, (if any):

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation of Federal aid Highway Funds, and is subject to applicable State and Federal Laws, both criminal and civil.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Commissioner

APPENDIX C  
CERTIFICATION OF LOCAL GOVERNMENT  
STATE OF GEORGIA

I hereby certify that I am the Mayor/Chairperson of the LOCAL GOVERNMENT in the State of Georgia, and that the above consulting firm or their representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Agreement to:

- a. employ or retain, or agree to employ or retain, any firm or person, or
- b. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as here expressly stated, (if any):

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation of Federal aid Highway Funds, and is subject to applicable State and Federal Laws, both criminal and civil.

\_\_\_\_\_  
Date

\_\_\_\_\_  
LOCAL GOVERNMENT MAYOR/Chairperson



COMMERCIALLY USEFUL FUNCTION (CUF)  
PROJECT SITE REVIEW (CONSTRUCTION PROJECTS)

GDOT 120 5/2014

Per 49 CFR 26.55, "A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved". It is the primary responsibility of the Prime Contractor to ensure that the DBE is performing a CUF. The Department, as the contracting agency, has oversight responsibility to ensure that the Prime Contractor has effectively met this responsibility under its contract with the Department.

➤ Document a minimum of one review for each DBE for each project with a DBE goal. File the completed form in the official project records with the applicable DBE report. The review should be started when the DBE first begins work and is not complete until the DBE has received a payment. Continue to monitor compliance through the course of the project. Use the CUF form to document any further noted concerns or inconsistencies. Contact the District EEO Officer if you believe a DBE may not be performing a Commercially Useful Function (CUF), or if you have any questions related to the program. This form does not document every possible question or concern. Monitoring the DBE for CUF is a continuous process through the life of the project.

Project Number: <input type="text"/> County: <input type="text"/> Prime Contractor: <input type="text"/>	GDOT Reviewer: <input type="text"/> Reviewer's Title: <input type="text"/> Review Date: <input type="text"/>																																																																								
DBE Name: <input type="text"/>																																																																									
DBE is performing as a Contractor:    The Prime Contractor <input type="checkbox"/> A Subcontractor <input type="checkbox"/> A Tier Subcontractor <input type="checkbox"/> DBE is performing as a Material Supplier:    A Manufacturer <input type="checkbox"/> A Regular Dealer <input type="checkbox"/> A Broker <input type="checkbox"/>																																																																									
<b>Scope of Work</b> Provide a brief description of the DBE's scope of work. (Refer to Subcontract Agreement and/or Purchase Order if needed.) <input type="text"/>																																																																									
	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:80%;"></th> <th style="width:10%;">YES</th> <th style="width:10%;">NO</th> </tr> </thead> <tbody> <tr> <td><b>A. Prime Contractor Interview and Subcontract Approval</b></td> <td></td> <td></td> </tr> <tr> <td>1. Does the Prime Contractor have a process in place to substantiate the DBE's CUF and the allowable credit toward the DBE goal in the Contract?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>2. Is the DBE only using equipment it owns, rents, or leases? (Obtain copies of all rent or lease agreements).</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>3. 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<b>COMMENTS:</b> if any response recorded in section A- E is "no", comments explaining the "no" are mandatory. Attach a 2 <sup>nd</sup> page if necessary. <input type="text"/>																																																																									

Figure 1

COMMERCIALLY USEFUL FUNCTION (CUF)  
PROJECT SITE REVIEW (CONSTRUCTION PROJECTS)

GDOT bbo 5/2014

CUF DETERMINANTS

<p><b>PERFORMING</b></p> <ul style="list-style-type: none"> <li>a. DBE must be responsible for performing its own work on the project</li> <li>b. At least 30% of the work must be performed by the DBE with its own workforce</li> <li>c. The DBE keeps a regular workforce and has its own employees</li> <li>d. The DBE is utilizing its own equipment</li> <li>e. Operation of the equipment must be subject to the full control of the DBE</li> </ul> <p><b>RED FLAGS</b></p> <ul style="list-style-type: none"> <li>• A portion of the DBE's work being done by the Prime Contractor or jointly with another contractor</li> <li>• Employee working for both the Prime and the DBE</li> <li>• Equipment used by DBE belongs to the Prime Contractor or another contractor with no formal lease agreement</li> <li>• Equipment signs and markings cover another contractor's identity</li> </ul> <p><b>RECORDS/DOCUMENTS</b></p> <ul style="list-style-type: none"> <li>• Subcontract Agreement or Purchase Order</li> <li>• Equipment ownership, rental, or lease documents</li> <li>• Certified payrolls</li> </ul>
<p><b>MATERIALS (For material credit)</b></p> <ul style="list-style-type: none"> <li>a. DBE is responsible for the delivery of the materials</li> <li>b. DBE is ordering the material and invoices indicate that DBE is the customer</li> <li>c. Material invoices indicate that DBE owner or Superintendent is the contact person</li> <li>d. Department has approved use of joint checks</li> </ul> <p><b>RED FLAGS</b></p> <ul style="list-style-type: none"> <li>• Materials for DBE credited work are delivered by the Prime Contractor</li> <li>• Materials are ordered, billed to, and/or paid by the Prime Contractor</li> <li>• Invoices do not indicate that DBE is the customer</li> <li>• Prime's employee is listed as the contact person on invoices</li> <li>• Materials come from Prime's stockpiles</li> </ul> <p><b>RECORDS/DOCUMENTS</b></p> <ul style="list-style-type: none"> <li>• Invoices</li> <li>• Haul tickets or Bills of Lading</li> <li>• Material on Hand documentation</li> <li>• Joint check agreement</li> <li>• Cancelled checks</li> </ul>
<p><b>SUPERVISING</b></p> <ul style="list-style-type: none"> <li>a. DBE supervisor is a full-time employee of the DBE</li> <li>b. Employees are being supervised by DBE supervisor</li> <li>c. DBE is scheduling work operations</li> </ul> <p><b>RED FLAGS</b></p> <ul style="list-style-type: none"> <li>• DBE's employees are being supervised by Prime Contractor or another contractor</li> <li>• DBE provides little or no supervision of work</li> <li>• DBE supervisor is not a full-time employee of the DBE</li> </ul> <p><b>RECORDS/DOCUMENTS</b></p> <ul style="list-style-type: none"> <li>• Certified Payrolls</li> <li>• Document communication with DBE owner or Superintendent</li> </ul>

Figure 2

### CUF Inspection Form Instructions

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The form does not and is not intended to document every possible CUF consideration. CUF is recognized during the normal course of inspecting the DBE's work on the project. The form merely records that CUF was inspected for the benefit of the record, and provides evidence to FHWA that CUF is being reviewed. It is the primary responsibility of the prime contractor to ensure that the DBE is performing a CUF. GDOT, as the contracting agency, has oversight responsibility to ensure that the prime contractor has effectively met this responsibility under its contract with the Department.

**I. Preconstruction Meetings:**

Remind the Prime contractor/s about the DBE goal and the contract requirements. Briefly go through the list of DBEs in the contract and what they will be performing. Remind the contractor about their CUF responsibilities identified in the Contract – Special Provision "Criteria for Acceptability". DBEs must perform a commercially useful function by actually performing, managing, and supervising the work involved. Credit toward the goal must not be reported on the monthly report unless the DBE is serving a CUF. You may ask the prime at this time if they have a CUF Process. If they say no, EEO will provide them guidance prior to the DBEs beginning work. Remind the Contractor, the Superintendent shall notify the Engineer prior to starting any Pay Item Work. The Prime Contractor shall coordinate and be responsible to the Engineer for all activities of subcontractors.

**II. Construction phase:**

Be familiar with the Contractors progress schedule. When will the DBEs begin work and on what items. The Prime contractor must not do the work of the DBE without the Engineers approval. Make certain the Prime gets a subcontract approval prior to the DBE begins work. And obtain a physical copy of the subcontract or supply agreement.

**III. Reviewing the Subcontract:**

The physical subcontract must be specific as to the work the DBE will perform. If the subcontract states: *furnish and install*, the expectation should be that the DBE will pay for the materials. If the subcontract merely states the DBE will *install, haul, or perform the work*, the Prime may have made arrangements to supply the materials themselves.

**IV. DBE begins work—CUF Form**

Begin the inspection by interviewing the Prime. Section A of the form. The intent is to establish that the contractor is aware of their responsibilities. Sections B through F are observations made during the normal course of inspecting the DBEs work.

Document a minimum of one review for each DBE for each project with a DBE goal. File the completed form in the official project records with the applicable DBE report. If your project is audited by a State or Federal agency, the expectation will be that each DBE that has worked on the project has had at least one documented CUF inspection.

The review should be started when the DBE first begins work and is not complete until the DBE has received a payment. Continue to monitor compliance through the course of the project. Use the CUF form to document any further noted concerns or inconsistencies.

Contact the District EEO Officer if you believe a DBE may not be performing a Commercially Useful Function (CUF), or if you have any questions related to the program. This form does not document every possible question or concern. Monitoring the DBE for CUF is a continuous process through the life of the project. Training is available online to aide in identifying fronts, scams, and pass-through schemes.

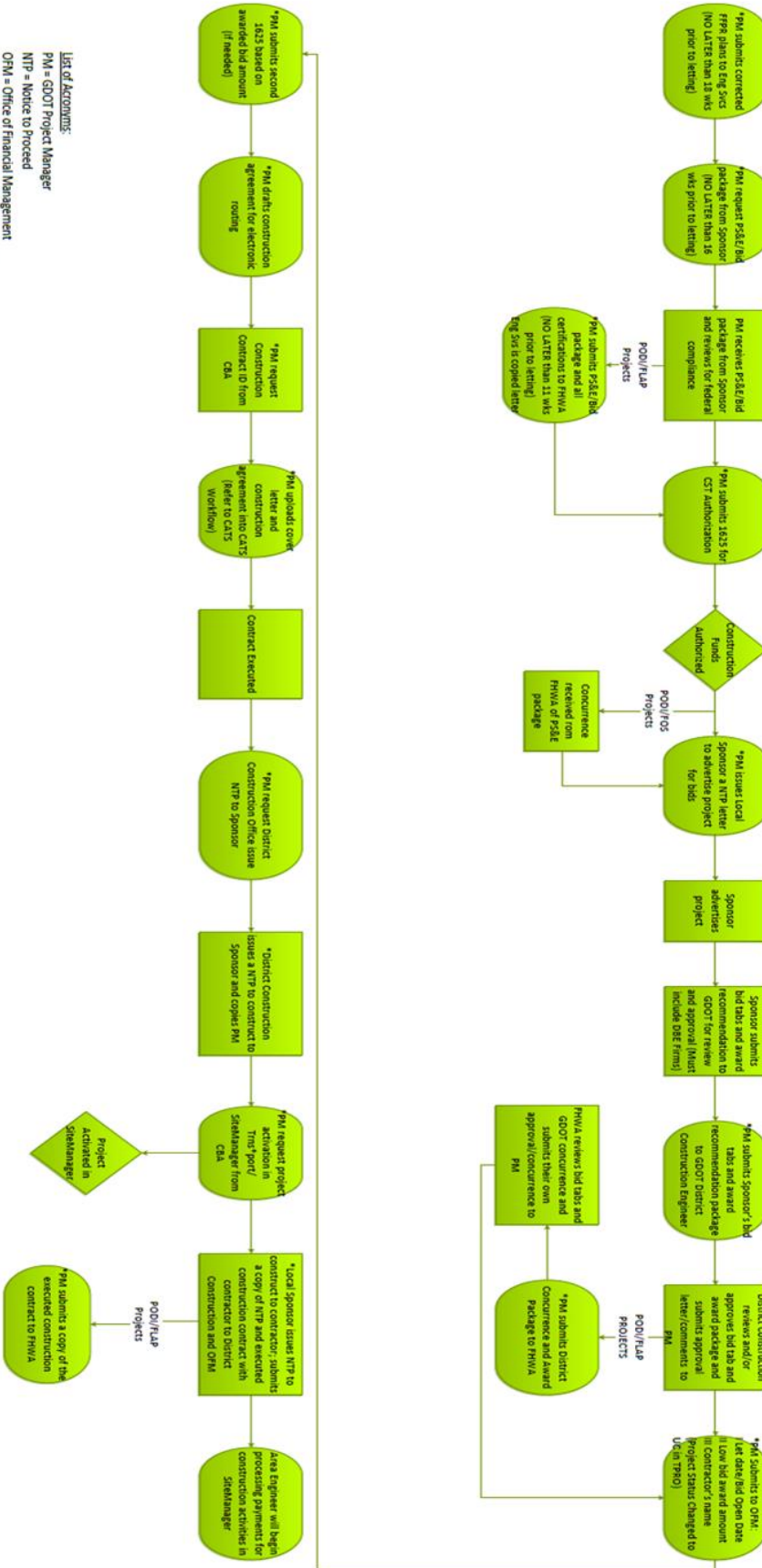
**Figure 3**

## Appendix B. GDOT Local Let Procedure and Example Letters

1. Local Let Procedures/Steps for PS&E submittal through Contractor NTP, flowchart and guidance for Project Managers
2. Local Let Procedures/Steps for PS&E submittal through Contractor NTP guidance for Project Managers
3. PS&E Package Checklist
4. Bid Document Checklist
5. Example Letter 1 – GDOT Request for PS&E Package from LPA
6. Example Letter 2 – PS&E Submittal and CST Authorization Request to FHWA
7. Example Letter 3 - Notice to Proceed to Bid to Local Government
8. Example Letter 4 – Local Let Construction Agreement to the Locals for Execution
9. Example Letter 5 – Notice to Proceed to Construction to District Construction Office
10. GDOT Invoicing Procedures for Project Managers
11. Buy America Language for Utility Agreements & Certificate of Compliance
12. Local Let Utility/Railroad Certification Request Letter (Example)
13. Railroad Agreement for Local Governments (Example)
14. Railroad Special Provision for Local Governments (Example)

## Local Let Procedures/Steps for PS&E submittal through Contractor NTP

Revised: March 11, 2020



- List of Acronyms:**
- PM = GDOT Project Manager
  - NTP = Notice to Proceed
  - OFM = Office of Financial Management
  - PODI = Projects of Division (FHWA) Interest
  - FLAP = Federal Lands Access Program
  - FHWA = Federal Highway Administration
  - CATS = Contract Authorization Tracking System
  - CST = Construction
  - PS&E = Plans Specifications and Estimate
  - FFR = Final Field Plan Review

\* See Guidance

**Local Let Procedures/Steps for PS&E submittal through Contractor NTP guidance for Project Managers**

1. PM will submit corrected FFPR plans to Engineering Services no later than 18 weeks prior to letting.
2. Using the **GDOT Request for PS&E Package from LPA** template letter, the **PS&E Package Checklist** and the **Local Let Bid Document CHECKLIST**, PM will request the PSE package from Local Sponsor, no later than 16 weeks prior to letting.
3. The PS&E package shall be received and reviewed by the PM no later than 11 weeks prior to the letting.
  - a. **PODI or FLAP Projects Only** - PM will submit the construction authorization request package to FHWA, which includes the PS&E package received from the locals. The template letter **PS&E Submittal and CST Authorization Request to FHWA** is to be used. The Office of Engineering Services is to be copied on the letter.
4. PM will then submit form 1625 to request construction fund authorization. The requested amount shall be the amount of the **designer's final cost estimate** or **the programmed amount**, whichever is **less**.
5. FHWA has 14 days to review the request package. Once the package is approved, FHWA will approve the construction fund authorization request in FMIS; construction funds are then authorized.
  - a. **PODI or FLAP Projects Only** – Concurrence is received from FHWA of submitted PS&E package.
6. PM issues Local Sponsor a Notice to Proceed to advertise project for bid using the template letter **Notice to Proceed to Bid to Local Government**.
7. Sponsor advertises project.
8. Sponsor submits bid tabulations and award package to GDOT for review and approval (*DBE information must be included*).
9. PM will submit Sponsor's bid tabulations and award recommendation letter to District Construction Engineer for review.
10. District Construction Estimator reviews and provides recommendation to the District Construction Manager; will coordinate with PM if needed.
11. District Construction Manager submits approval letter with comments to the PM.

**PODI Project Only**

- a. PM will submit Concurrence of Award letter to FHWA upon approval of bid package by GDOT District Construction.
  - b. FHWA reviews bid package and GDOT concurrence letter and will submit their own approval/concurrence to the PM.
12. PM will submit the following to the OFM Project Programming Manager (Windy Bickers) to change the project status in TPro from Preconstruction (PROG) to Under Construction (UC):

- a. Bid Opening Date
  - b. Low Bid Award Amount
  - c. Contractor's Name
13. PM will submit a second 1625 to adjust the amount authorized for construction based on the low bid award amount. The amount shall be adjusted based on the following conditions:
- a. **(Low Bid Award Amount < 1625#1, reduce to Low Bid Award Amount)** - If the low bid award amount is **less** than the amount originally authorized, PM will submit a negative 1625 to reduce the construction authorized amount to equal the low bid award amount.
  - b. **(Low Bid Award Amount > 1625#1, but < Programmed Amount, increase to Low Bid Award Amount)** - If the low bid award amount is **greater** than the amount originally authorized for construction **but** is **less** than the programmed amount, PM will submit 1625 to increase the authorized amount to equal the Low Bid Award Amount.
  - c. **(Low Bid Award Amount > 1625#1, and > Programmed Amount, Increase to Programmed Amount)** – If the low bid award amount is **greater** than the amount originally authorized for construction and is also **greater** than the programmed amount, PM will submit 1625 to increase the authorized amount to equal the programmed amount.
  - d. **(1625# 1 and Bid Award Amount > Programmed Amount, take no action)** – If the original amount authorized was the amount programmed for construction, no additional funding is available, therefore a second 1625 will not be needed.
14. PM will draft construction agreement.
15. To receive a Contract ID number later be set up in the SiteManager system for payment processing, PM will email an UNEXECUTED copy of the Construction Agreement to Nicholas Fields of the Office of Construction Bidding Administration (CBA); copy Chet Welch and Sharon Chapman. CBA will respond with the assigned Construction Contract ID number.
16. Using the Contract ID received from CBA, PM will enter construction agreement info into CATs and upload, along with signed cover letter from OPD office head, for electronic routing. (Refer to CATS tutorial)
17. Once executed, PM will email agreement to the Area Engineer and District Construction Office. Using the **Notice to Proceed to Construction to District Construction Office** template letter, PM will request NTP to construct be issued to the Sponsor. The District Construction Office issues a Notice to Proceed to Construct Letter to Sponsor; PM should be copied on the NTP letter.
18. PM requests project activation in Trns\*port/SiteManager for payment processing setup. Include the documents listed below in an email sent to Nicholas Fields of CBA, coping Chet Welch and Sharon Chapman.
- a. An executed copy of the Construction Agreement

- b. A copy of the Bid Evaluation Form (Please Do Not submit the Bid Tabulations)
  - c. A copy of the letter Notice to Proceed to Construction from the District
19. Local Sponsor issues Notice to Proceed to the contractor and submits a copy of the NTP and executed construction contract, *between the locals and the contractor*, to PM, District Construction Office, Area Construction Office and OFM Administrator.
- PODI Project Only - PM submits a copy of the executed construction contract to FHWA.
20. The Area Engineer will process the Local Sponsor's request for payments for the construction activities in Site Manager.



## P S & E PACKAGE CHECKLIST (FOR LOCAL LET PROJECTS)

Letting Date: XX

Project No/Nos: XX

County/Counties: XX

- Environmental Certification from the Office of Environmental Services
- Right of Way Certification from the Office of Right of Way
- Utilities/Railroad Certification from the State Utilities Office
- ADA Compliance letter from **City/County**
- Final Plans (one half-size set) with Quality Assurance (QA) letter from **City/County**
- Final Designers Cost Estimate (2 copies) dated **MM/DD/YYYY**
- Special Provision 108.08 and Special Provision 150.11 approved by the District Construction Office
- Traffic Management Plan (if applicable)
- Project Bid Proposal (include all Special Provisions in proposal) – See the attached *Bid Document Checklist For Local Let Projects*
- Approvals for Proprietary Items listed in Special Provision 647 and Special Provision 937 (if applicable)
- Documentation to demonstrate that the archaeological report and/or cultural resource survey was provided for review by the Seminole Tribe of Florida (if applicable)

The PS&E package submitted by **City/County** has been reviewed and is in compliance with federal regulations.

Submitted by: \_\_\_\_\_

Local Government & Title

Recommended by: \_\_\_\_\_

Project Manager

Concurred by: \_\_\_\_\_

District Program Manager

## BID DOCUMENT CHECKLIST FOR LOCAL LET PROJECTS (EXCEPT TE PROJECTS)

PI Number: \_\_\_\_\_ County: \_\_\_\_\_

Project Name: \_\_\_\_\_

Reviewer: \_\_\_\_\_ Date: \_\_\_\_\_

### COVER SHEET

- \_\_\_\_\_ Name of project
- \_\_\_\_\_ Project and P.I. numbers
- \_\_\_\_\_ Include County name in Sponsor line, if the Sponsor is not a county.

### GENERAL REQUIREMENTS

Advertise the project for bid according to requirements of O.C.G, A., Title 32, Chapter 2, excluding that provision which provides for negotiations. The minimum advertising period is three weeks before bid opening and one week after the first advertising notice. We recommend the first advertisement be made four weeks prior to bid opening. Sponsors must follow Title 32 and not Title 36 for bidding procedures. No negotiating allowed between opening of bids and execution of the construction contract with the contractor.

\_\_\_\_\_ Review Environmental Commitment Table for approved Categorical Exclusion to identify any special requirements for the bid document. Also verify that the Environmental Resources Impact Table (ERIT) in the plans is correct.

\_\_\_\_\_ Include a sentence indicating that the GDOT Standard Specifications Construction of Transportation Systems, 2013 Edition, and applicable special provisions and supplemental specifications apply to the contract.

\_\_\_\_\_ Add a sentence to indicate the DBE goal. The DBE goal for this project is \_\_\_\_.

\_\_\_\_\_ Include a sentence to indicate that Bidders submitting a bid \$2,000,000 or less must be either a prequalified contractor or a registered subcontractor with GDOT.

\_\_\_\_\_ Include a sentence to indicate that Bidders submitting bids in excess of \$2,000,000 must be prequalified with GDOT.

\_\_\_\_\_ Include the FHWA Form 1273.

\_\_\_\_\_ Include the Non-collusion Provisions.

- \_\_\_\_\_ Add the following to the advertisement:  
The (Insert Sponsor's Name) in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d—42 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.
- \_\_\_\_\_ A bid bond is required. (Section 102.08)
- \_\_\_\_\_ Performance and payment bonds are required as per Section 103.05. This results in a performance bond of 100% of the contract amount and a payment bond of 110% of the contract amount.
- \_\_\_\_\_ Add the following sentence as the basis of the contract award: If the Contract is awarded, it will be awarded to the lowest reliable bidder whose proposal shall have met all the prescribed requirements. (Section 103.02)
- \_\_\_\_\_ Specify how the lowest bidder will be determined if the proposal includes a base bid and alternates. Include language such as the low bid will be determined based on the sum of the base bid and any alternates selected by the Sponsor.
- \_\_\_\_\_ Include lobbying/debarment certification.
- \_\_\_\_\_ Include Buy America Provisions.
- \_\_\_\_\_ Include a construction time period of the contract, usually number of calendar days following the Notice to Proceed to Construction given by the Sponsor to the contractor. The number of days is \_\_\_\_\_.
- \_\_\_\_\_ Include a provision for liquidated damages conforming to Section 108.08.
- \_\_\_\_\_ Include that the completed DBE Goals Form, Federal Aid Certification, and Georgia Security and Immigration Compliance Act Affidavit shall be submitted with the bid.
- \_\_\_\_\_ Include a general note for a preconstruction conference with, at a minimum, Sponsor, Contractor, selected DBE firms, GDOT Area Engineer, and the GDOT Project Manager.
- \_\_\_\_\_ DBE Goals Form – Add the project number, county, and DBE goal to the form.
- \_\_\_\_\_ All construction projects require the use of Davis-Bacon wage rates regardless of physical location. Include a copy of the current wage rate determination in the bid document. The web site for the wage rates is: <http://www.wdol.gov/dba.aspx#0>. To find the wage rate

determination, select the State and county in which the project is located and then select HIGHWAY.

\_\_\_\_\_ The GDOT Standard Specifications do not permit retainage of a portion of progress payments to the contractor. Any reference to retainage of a portion of progress payments by the Sponsor is to be removed.

\_\_\_\_\_ Include appropriate Special Provisions 647 or 937 for use of proprietary items.

\_\_\_\_\_ Indicate that all testing is to meet the requirements outlined in the GDOT Sampling, Testing, and Inspection Guide.

\_\_\_\_\_ Indicate that the contractor shall use suppliers on the appropriate GDOT Qualified Products List.

## EXAMPLE 1 - GDOT Request for PS&E Package from LPA



Russell R. McMurry, P.E., Commissioner  
One Georgia Center  
600 West Peachtree Street, NW  
Atlanta, GA 30308  
(404) 631-1000 Main Office

Month Day Year

PI XXXXXXX, XXXXX County  
Project Description

XXXXXXX, Mayor, Director or County Commissioner  
Attn: XXXXXXX.  
Address

Subject: **Request for Plans, Specifications & Estimate (PS&E) Package**

Dear Mayor/Director/County Commissioner Name,

The Georgia Department of Transportation (GDOT) is pleased to inform you that your proposed project is ready to proceed with the authorization of construction funding. Please provide the GDOT Project Manager with a copy of the PS&E package (see the attached PS&E Package Checklist). Your bid proposal shall include the X% DBE Goal, which was established at the GDOT DBE/Bid Review meeting. Once FHWA has reviewed your PS&E package and authorized the construction funds, the Project Manager will issue you a Notice to Proceed (NTP) to advertise the project for bid. The GDOT web site, "The Source" at <http://www.dot.ga.gov/PS/Business/Source> provides guidelines for you as you accept the role of representing the Department and FHWA as stewards of the Federal-aid process.

If you have any questions, please contact the Project Manager, XXXXXXX, at (XXX) XXX-XXXX.

Sincerely,

Albert V. Shelby, III  
Director of Program Delivery

AVS:KWN:AOH:DPM:PM

Attachments

cc: XXXXXXX, Local Contact Person (City Engineer, City Administrator, etc)  
XXXXXXX, District X Engineer  
XXXXXXX, District X Construction Engineer

Date

## Example 2 – Notice to Proceed to Bid to Local Government



Russell R. McMurry, P.E., Commissioner  
One Georgia Center  
600 West Peachtree Street, NW  
Atlanta, GA 30308  
(404) 631-1000 Main Office

Month Day Year

PI No. XXXXXX, XXXXX County  
Project Description

XXXXXX, Mayor, Director or County Commissioner Name  
City of XXXXX/XXXXX County  
Address

Subject: **Notice to Proceed to Advertise**

Dear Title XXX:

This serves as your Notice to Proceed to advertise for bids on the above referenced project. As per state and federal law, you are reminded the City/County must publish bid advertisements for a minimum of two consecutive weeks starting at least three weeks in advance of the bid opening. The advertisement shall be published in the local legal organ. Competitive bidding practices must be followed in the award of the contract.

When the sponsor is ready to recommend a Contractor for the project, the Sponsor shall notify the Department in writing in tabular form with a list of all bidders and the bid amount for each bidder. This form shall include all DBE Contractors with percentages for each bidder on the list. The Budget Estimate shall be included as submitted for the letting for the recommended Contractor. DBE Goals and forms must be included in the Bid Documents.

DBE Goal: (enter approved goal) %

The Sponsor shall ensure all contracts as well as any subcontracts for the construction of the project shall comply with the Federal and State legal requirements imposed on the Department and any amendments thereto. The Sponsor is required and does agree to abide by those provisions governing the Department's authority to contract, specifically, but not limited to, Sections 32-2-60 through 32-2-77 of the Official Code of Georgia Annotated; the Department's Rules and Regulations governing the Prequalification of Prospective Bidders, Chapter 672-5; and the Department's Standard Specifications and Special Provisions.

The Contract shall not be awarded until a Construction Agreement has been executed and a written Notice to Proceed to Construction is given by the Department.

Please contact the Project Manager, PM Name, at (XXX) XXX – XXXX should you have any questions or concerns.

Sincerely,

Kimberly W. Nesbitt  
State Program Delivery Administrator

KWN:AOH:DPM:PM  
cc: District X Engineer

## Example 3 – Local Let Construction Agreement to Locals for Execution



**Russell R. McMurry, P.E., Commissioner**  
 One Georgia Center  
 600 West Peachtree Street, NW  
 Atlanta, GA 30308  
 (404) 631-1000 Main Office

Month, Day, Year

Mayor, Director or County Commissioner Name  
 City of XXXXX/XXXXX County  
 Address Line 1  
 Address Line 2

ATTN: Local Government Contact Name and Position

Subject: **Construction Contract Agreement for Execution**  
 P.I. XXXXXXX, XXXXXX County  
 Project Description

Dear Title XXXXX,

The Department accepts the recommendation from the City/County to award (enter selected Contractor) the contract for construction services concerning the above referenced project. In addition, the Department is requesting that the City/County submit payment for Construction Oversight activities that will be used to fund GDOT staff man-hours and any other associated expenses incurred by any GDOT employee. The estimated amount for the GDOT Construction Oversight is \$10,000.00 (Number is based on estimated CST time; \$10,000 per 12 months of CST). Eighty percent of that amount (\$8,000.00) will be paid through federal funding. The remaining 20% (\$2,000.00) is to be paid by the City/County. **Please send payment in the amount of \$2,000.00 made out to the Georgia Department of Transportation as follows and include the above P.I. No. on the transaction:**

**For payments made by check:**  
 Georgia Department of Transportation  
 P.O. Box 117138  
 Atlanta, GA 30368-7138

**For payments made by ACH:**  
 Bank Routing (ABA) # 021052053  
 Account # 43125093

Attached you will find four (4) original contract agreements for the above referenced project. Please execute each contract agreement and provide the appropriate title and address where indicated. Once the Department has received the check, four signed originals of the contract agreement (please include four original copies of the Georgia Security and Immigration Compliance Act Affidavit) and Testing Materials form we will execute the contract agreement and issue the City/County a Notice to Proceed to Construction. **Please send the signed contracts and documents (4 original copies) to the Georgia Department of Transportation as follows:**

**Kimberly Nesbitt, State Program Delivery Administrator**  
 Attn: Project Manager Name  
 Georgia Department of Transportation  
 600 West Peachtree Street, 25<sup>th</sup> Floor  
 Atlanta, Ga. 30308

Construction Contract Agreement for Execution  
P.I. XXXXXX, XXXXX County  
Project Description  
Date  
Page 2 of 2

Should you have any questions or concerns, please contact the Department's Project Manager, XXXXXXXX, at XXX-XXX-XXXX.

Sincerely,

Albert V. Shelby, III.  
Director of Program Delivery

AVS:KWN:AOH:DPM:PM  
Attachments

Cc  
Kevin Stone-General Accounting  
[ARBillings@dot.ga.gov](mailto:ARBillings@dot.ga.gov)

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## Example 4 – Notice to Proceed to Construction to District Construction Office

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### Interoffice Memo

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**FILE:** P.I. XXXXXXX, XXXXXXX County  
Project Description

**DATE:** Month Day, Year

**FROM:** Kimberly W. Nesbitt, State Program Delivery Administrator

**TO:** XXXXXX, District X Engineer  
Attn: XXXXXX, District X Construction Engineer

**SUBJECT:** Notice to Proceed to Construction

This Office requests that the District Construction Engineer give the City/County the Notice to Proceed (NTP) for the construction of the above referenced project. Attached for your records and to send to the Local Government are copies of the executed construction agreement for the above referenced project. The contract ID number is shown below.

Please inform the Local Government that they should send an award notice to this office and to Angela Robinson, Administrator, Office of Financial Management, when the contract is awarded. The award notification should include the following information:

- Project number: ABC00-1234-00(567)
- Project Identification (P.I.) number: 123456-
- Contract ID#: CSOPD-00-184329
- Name of Contractor:
- Award amount:

If you have any questions or concerns please contact the Project Manager, PM Name, at PM telephone number, of this Office for information.

KWN:AOH:DPM:PM Initials

Attachments

cc: {Area Engineer with copy of Construction Agreement and plans}  
{State Materials Engineer with Construction Agreement copy}  
{Project Programming Manager, OFM – letter only}

## **GDOT INVOICING PROCEDURES FOR PROJECT MANAGERS**

### **Conventional Projects only – Reimbursed PE**

1. The Project Framework Agreement (PFA) (also known as the LGPA – Local Government (LG) Project Agreement and the PMA – Project Management Agreement)
  - a. This document outlines the commitments the Local Government will complete in doing Local PE activities and the funding sources for the PE.
2. If the project has reimbursable PE:
  - a. The LG should invoice the Department monthly with a cover letter from the Local Government outlining the eligible expenses and the agreed upon billing expense (80% federal, 20% local usually).
  - b. The PM should review the invoice for correctness; make sure the contract amount has been allocated, make sure the percent being reimbursed is correct, make sure the contract amount is correct on the invoice, blue stamp or red stamp the invoice (if it's a replacement) then sign and date inside the stamp.
  - c. The PM should fill out DOT form 1678 (Voucher Summary) – located on *Policies and Procedures under Excel Forms – search by DOT1678*.
    - i. Submit LG invoice along with the filled out 1678 to the Office Head for approval.
    - ii. After Office Head approval, make 1 copy of the LG invoice (minus the supportive documentation) and two copies of the signed 1678 form.
    - iii. Make 1 PDF of the LG invoice along with the 1678.
      1. File a PDF in the electronic folder for the project
      2. Send a PDF to the contract specialists in OPD for their files

Buy America Language for Utility Agreements  
Original 11/19/2013  
Revised 1/28/2015

5. In accordance with the BUY AMERICA requirements of the Federal regulations (23 U.S.C. 313 and 23 CFR 635.410) all manufacturing processes for steel and iron products or predominantly of steel or iron (at least 90% steel or iron content) furnished for permanent incorporation into the work on this project shall occur in the United States. The only current exception to this requirement is the production of pig iron and the processing, pelletizing and reduction of iron ore, which may occur in another country. Other than these current exceptions, all melting, rolling, extruding, machining, bending, grinding, drilling, coating, etc. must occur in the United States.

- (a) Products of steel include, but are not limited to, such products as structural steel piles, reinforcing steel, structural plate, steel culverts, guardrail, steel supports for signs, signals and luminaires. Products of iron include, but are not limited to, such products as cast iron frames and grates and ductile iron pipe. Coatings include, but are not limited to, the applications of epoxy, galvanizing and paint. The coating material is not limited to this clause, only the application process.
- (b) A Certificate of Compliance shall be furnished for steel and iron products as part of the backup information with the billing. The form for this certification entitled “**Buy America Certificate of Compliance**” is attached to this agreement and shall be provided to the LOCAL GOVERNMENT upon completion of 80% of the agreement amount. Records to be maintained by the RAILROAD/UTILITIES and the LOCAL GOVERNMENT for this certification shall include a signed mill test report and/or documentation by a supplier, distributor, fabricator, or manufacturer that has handled the steel or iron product affirming that every process, including the application of a coating, performed on the steel or iron product has been carried out in the United States of America, except as allowed by this Section. The lack of these certifications will be justification for rejection of the steel and/or iron product or nonpayment of the work.
- (c) The requirements of said law and regulations do not prevent the use of miscellaneous steel or iron components, subcomponents and hardware necessary to encase, assemble and construct the above products, manufactured products that are not predominantly steel or iron or a minimal use of foreign steel and iron materials if the cost of such materials used does not exceed one-tenth of one percent (0.1%) of the total contract price or \$2,500.00, whichever is greater.

Original 5/17/2013  
Revised 1/28/2015

**GEORGIA  
DEPARTMENT OF TRANSPORTATION  
BUY AMERICA  
CERTIFICATE OF COMPLIANCE**

Date [Click here to enter a date.](#)

WE, \_\_\_\_\_  
(UTILITY/RAILROAD OWNER)

Address: \_\_\_\_\_

Hereby certify that we are in compliance with the "Buy America" requirements of the Federal regulations 23 U.S.C. 313 and 23 CFR 635.410 of this project.

[\[Insert Project P.I. No. and Description Here\]](#)

As required, we will maintain all records and documents pertinent to the Buy America requirement, at the address given above, for not less than 3 years from the date of project completion and acceptance, if we do not provide the records and documents during invoicing. If all records and documents pertinent to the Buy America requirement are delivered during invoicing, then we will maintain all records and documents pertinent to the Buy America requirement for not less than three (3) years from the date conditional final payment has been received by the UTILITY/RAILROAD. These files will be available for inspection and verification by the Department and/or FHWA.

We further certify that the total value of foreign steel as described in the Buy America requirements for this project does not exceed one-tenth of one percent (0.1%) of the total contract price or \$2,500.00, whichever is greater.

Signed by \_\_\_\_\_ Title \_\_\_\_\_  
Officer of Organization

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Justice of the Peace My Commission Expires: \_\_\_\_\_

**THIS SHALL BE PLACED ON LOCAL GOVERNMENT LETTERHEAD**

DATE

District Utilities Engineer  
 ADDRESS  
 City, Georgia Zip Code

RE: **Request for Utility/Railroad Certification**

Project No:

P.I. #

Description:

Dear **District Utilities Engineer**

**Name of Local Government** requests that Utilities/Railroad for the above subject project be certified for funding authorization. I hereby certify that the appropriate research, field investigation, design considerations and coordination with the Utility/Railroad Owners on this project, as identified in the table below, have been performed, and further certify that all known utility related issues have been identified and resolved as conforming to 23 CFR, PART 645, SUBPART A, and all Railroad related issues have been resolved as conforming to 23 CFR, PART 646. All necessary arrangements have been made for resolution to be undertaken and completed as required for proper coordination with the project’s physical construction schedule.

**Status of Utilities/Railroad**

- A.  There are **NO** known utilities within the project limits.
- B.  There are known utilities within the project limits. However, due to the scope of work, no utility coordination is required. **(Comments)**
- C.  There are known utilities within the project limits and each respective status is as follows:

Utility/Railroad Company	Utility Type	Status 1,2, 3 or 4	Conditional Restriction and Time

Project Number:  
P.I. Number  
Date  
Page 2

**Status 1:** The Utility/Railroad Owner is in conflict with the project and requires relocation by the Utility/Railroad Owner during construction requiring coordination with the Contractor and the Utility/Railroad Owner. The relocations are non-reimbursable and the Utility Owner will be relocating at no cost to the Local Government or the Department.

**Status 2:** The Utility/Railroad Owner is in conflict with the project and requires relocation by the Utility/Railroad Owner during construction requiring coordination with the contractor and the Utility/Railroad Owner. The reimbursable agreement (which includes Buy America clause) between the Local Government and the Utility/Railroad Owner is attached.

**Status 3:** The Utility/Railroad Owner is located within the project limits but requires no relocation work.

**Status 4:** Utility relocation to be incorporated into the highway construction project contract which requires Buy America clause.

The Georgia Department of Transportation shall bear no cost in the Utility or Railroad relocation reimbursement for this project. Any Utility or Railroad Reimbursement Agreement required for construction of this project shall be between the Name of Local Government and the respective Utility or Railroad Owner. If a previously unknown conflict arises during construction that requires reimbursement, then Name of Local Government shall be responsible for all such costs.

\_\_\_\_\_  
Signature of an Official of the Local Government

\_\_\_\_\_  
Date

**EXAMPLE AGREEMENT**

Contract ID No.: \_\_\_\_\_

Project: \_\_\_\_\_, \_\_\_\_\_ County

PI No. \_\_\_\_\_

RR File #: \_\_\_\_\_

THIS AGREEMENT, made and entered into \_\_\_\_\_, by and between,  
**LOGAL GOVERNMENT NAME HERE**, a political subdivision of the State of Georgia, hereinafter styled the **COUNTY/CITY**, party of the first part; and

**RAILROAD NAME HERE**, a corporation, chartered in the State of \_\_\_\_\_, hereinafter styled the **RAILROAD**, party of the second part.

WITNESSETH that:

WHEREAS, the **COUNTY/CITY** proposes under the above written project number to (enter overall project description with City, County Georgia); and

WHEREAS, (enter the railroad involvement of project description as it refers to the impacts to the railroad including RR milepost and RR crossing ID #); and

WHEREAS, said construction will require the RAILROAD to perform (preliminary engineering, construction engineering, track work, signal and electrical work and accounting/billing) which the RAILROAD is willing to perform in accordance with the estimate attached hereto; and

WHEREAS, the RAILROAD is in agreement with the **COUNTY/CITY**'S project and plans; and

WHEREAS, the new overpass bridge will be owned and maintained by the CITY/COUNTY; and

WHEREAS, the new underpass bridges will be owned and maintained by the RAILROAD; and

WHEREAS, the RAILROAD is willing to grant the **COUNTY/CITY** (also add 3rd party if applicable) temporary easement(s) for this work as provided for herein as necessary for roadway construction and maintenance of (grade separation structures) (grade crossings) (protective devices) (traffic signal equipment) in accordance with O.C.GA. 32-6-196; and

**INTRODUCTORY PAGE FOR RAILROAD AGREEMENTS**

(Heading is for information only, to be removed)

WHEREAS, matters relating to warning devices at the grade crossing are being handled separate from this agreement; and

WHEREAS, acquisition of RAILROAD property required for roadway right-of-way and easements is being handled separate from this agreement; and

(Next two "WHEREAS" statements are for RR participation projects only)

WHEREAS, the RAILROAD agrees to participate in the cost of the project as hereinafter provided; and

WHEREAS, the RAILROAD agrees to reimburse the COUNTY/CITY for the cost of \$\_\_\_\_\_ for eliminating the grade crossing as hereinafter provided.

NOW THEREFORE, the PARTIES HERETO, each in consideration of the premises above and of the covenants of the other as hereinafter expressed and contained, do hereby contract and agree each with the other as follows:

- 1) It is specifically understood that the project number shown above is for the COUNTY/CITY's identification purposes only and may be subject to change by the COUNTY/CITY. In the event it becomes necessary for the COUNTY/CITY to assign a different project number, the COUNTY/CITY will notify the RAILROAD (also add 3<sup>rd</sup> party if applicable) of the new project designation. Such change in project designation shall have no effect whatsoever on any other terms of this agreement.
- 2) It is agreed that the regulatory provisions of Part 140, Subpart I, and Part 646, Subpart B, of Title 23, Highways, of the Code of Federal Regulations, current edition, (hereinafter referred to as CFR) shall govern the work and procedures covered by this agreement and are by reference incorporated herein.
  - a) It is agreed that in accord with Title 23 of the CFR, Chapter I, Subchapter G, Part 646, Subpart B, Section 646.210 the work proposed under this Agreement shall not benefit the RAILROAD and that the RAILROAD shall not participate in any of the cost of making surveys, preparing plans, acquiring materials and performing the work covered under this Agreement.
  - b) The RAILROAD shall furnish the necessary materials and perform the work on an actual cost basis. All materials which are required to complete the work will be purchased direct by the RAILROAD or furnished from RAILROAD stock in accordance with Part 140, Subpart I, of CFR. Any portion of the work contemplated under this agreement may be let to contract by the RAILROAD through competitive bidding or the RAILROAD may use the services of a contractor which works for the RAILROAD on a routine basis under a written continuing contract subject to the terms and conditions of the aforesaid CFR, and with prior review and approval by the COUNTY/CITY, all in accord with the detailed estimate attached. Before the RAILROAD initiates accomplishment of any work by these means, the RAILROAD shall first contact the COUNTY/CITY to determine the appropriate procedures to follow to provide for compliance. Prior approval by the COUNTY/CITY will not be necessary when work is performed by competitive bidding when the amount of work does not exceed \$10,000 per each individual contractor.
  - c) RAILROAD shall give COUNTY/CITY and Federal Highway Administration, when applicable, ample opportunity to inspect materials recovered by RAILROAD in accordance with Part 646, Subpart B, of CFR.

(Section d along with its subparts should only be used if BUY AMERICA is required)

- d) In accordance with the BUY AMERICA requirements of the Federal regulations (23 U.S.C. 313 and 23 CFR 635.410) all manufacturing processes for steel and iron



products or predominantly of steel or iron (at least 90% steel or iron content) furnished for permanent incorporation into the work on this project shall occur in the United States. The only current exception to this requirement is the production of pig iron and the processing, pelletizing and reduction of iron ore, which may occur in another country. Other than these current exceptions, all melting, rolling, extruding, machining, bending, grinding, drilling, coating, etc. must occur in the United States.

- i. Products of steel include, but are not limited to, such products as structural steel piles, reinforcing steel, structural plate, steel culverts, guardrail steel supports for signs, signals and luminaires, and cable wire/strand. Products of iron include, but are not limited to, such products as cast iron frames and grates and ductile iron pipe. Coatings include, but are not limited to, the applications of epoxy, galvanizing and paint. The coating material is not limited to this clause, only the application process.
- ii. A Certificate of Compliance shall be furnished for steel and iron products as part of the backup information with the billing on RAILROAD material furnished according to the force account agreement. The form for this certification entitled "Buy America Certificate of Compliance" is attached to this agreement as "Exhibit A" and shall be provided to the COUNTY/CITY upon completion of 80% of the agreement amount. Records to be maintained by the RAILROAD and the COUNTY/CITY for this certification shall include a signed mill test report and/or documentation by a supplier, distributor, fabricator, or manufacturer that has handled the steel or iron product affirming that every process, including the application of a coating, performed on the steel or iron product has been carried out in the United States of America, except as allowed by this Section. The lack of these certifications will be justification for rejection of the steel and/or iron product or nonpayment of the work.
- iii. The requirements of said law and regulations do not prevent the use of miscellaneous steel or iron components, subcomponents and hardware necessary to encase, assemble and construct the above products, manufactured products that are not predominantly steel or iron or a minimal use of foreign steel and iron materials if the cost of such materials used does not exceed one-tenth of one percent (0.1%) of the total contract price or \$2,500.00, whichever is greater..

**PARALLEL ENCROACHMENT** (if more than one situation applies, leave heading)

- 3) RAILROAD to the extent that its present right, title and interest permits or enables it so to do and without warranty hereby grants unto the COUNTY/CITY (also 3<sup>rd</sup> party if applicable) an easement along and upon its right-of-way of such width as may be necessary to construct and maintain in accordance with this agreement, said roadway improvements and construction of slopes and drainage improvements along and upon the right-of-way or property of RAILROAD, all as shown on the project plans and in accord with the specifications and special provisions. Said project plans, specifications, and special provisions, which are identified by the project number shown above, as finally approved by the RAILROAD and COUNTY/CITY (also 3<sup>rd</sup> party if applicable), are hereby made a part

hereof by reference. Reserving, however, unto the RAILROAD the right to continue to maintain, renew and operate its railroad and appurtenances adjacent to said road, and to construct such additional tracks and other railroad facilities adjacent to said road, and to maintain, repair and operate the same as in the judgment of RAILROAD may be requisite. Said easement for construction and maintenance is more particularly described as shown on project plan sheets which are attached hereto and made a part hereof.

- 4) The COUNTY/CITY will construct and maintain in good and safe condition said roadway, slopes, drainage and other work adjacent to the tracks of the RAILROAD. The COUNTY/CITY further agrees that such work shall be done and performed in accordance with the reasonable requirements of the RAILROAD in such manner as to prevent interruption of, interference with or danger or delay to railroad operations.
- 5) RAILROAD, with its regular construction or maintenance forces and personnel and at its standard schedule of wages and working hours and working in accordance with the terms of its agreements with such employees, will do and perform the work as described in the detailed estimate dated \_\_\_\_\_ for \$\_\_\_\_\_ prepared in accord with aforesaid CFR, said estimate being attached hereto and made a part of this agreement. The amount of the detailed cost estimate(s) attached hereto will be allotted from available funds and written notice given to RAILROAD by COUNTY/CITY before RAILROAD is authorized to proceed with the work to be performed by RAILROAD under this agreement.

GRADE CROSSING (if more than one situation applies, leave heading)

- 6) RAILROAD to the extent that its present right, title and interest permits or enables it so to do and without warranty hereby grants unto the COUNTY/CITY (also 3<sup>rd</sup> party if applicable) an easement across its right-of-way of such width as may be necessary to construct and maintain, in accordance with this agreement, the aforesaid grade crossing across the right-of-way or property of RAILROAD, all as shown on the project plans and in accord with the specifications and special provisions. Said project plans, specifications, and special provisions, which are identified by the project number shown above, as finally approved by the RAILROAD and COUNTY/CITY (also 3<sup>rd</sup> party if applicable), are hereby made a part hereof by reference. Reserving, however, unto the RAILROAD the right to continue to maintain, renew and operate its railroad and appurtenances across said road, and to construct such additional tracks and other railroad facilities across said road, and to maintain, repair and operate the same as in the judgment of RAILROAD may be requisite. Said easement / construction is more particularly described as shown on plan sheets which are attached hereto and made a part hereof.
- 7) The COUNTY/CITY will construct / resurface and maintain, including necessary grading and drainage, in good and safe condition the highway crossing covered hereby, except for the portion between the rails of said tracks and for two feet on the outer side of the cross ties where RAILROAD will install / adjust the crossing and thereafter this area shall be maintained and the expense thereof shall be borne by such party as may be required to do so under the provisions of applicable law as the same may be amended from time to time.
- 8) It shall be the RAILROAD's responsibility to plan with the COUNTY/CITY's contractor a schedule of operations which will clearly set forth at which stage of the contractor's

operations the RAILROAD will be required to perform its grade crossing and associated work.

- a) RAILROAD shall attempt to schedule and coordinate the required grade crossing work so that it is performed in conjunction with the COUNTY/CITY's roadway construction project in the area of the crossing. The paving and / or traffic control at the crossing may then be performed by the COUNTY/CITY's contractor. If the RAILROAD cannot so schedule and coordinate its work, then the RAILROAD will be responsible for paving and / or providing traffic control at the crossing and these items will be covered under and charged to this agreement. Signing and other traffic control measures provided by the RAILROAD during construction shall be in accordance with PART VI of the Manual on Uniform Traffic Control Devices (MUTCD), current edition, or as required by the COUNTY/CITY's Engineer.
- 9) RAILROAD, with its regular construction or maintenance forces and personnel and at its standard schedule of wages and working hours and working in accordance with the terms of its agreements with such employees, will do and perform the work as described in the detailed estimate dated [REDACTED] for \$ [REDACTED] prepared in accord with aforesaid CFR, said estimate being attached hereto and made a part of this agreement. Installation of new grade crossings or adjustment of existing grade crossings shall be in accordance with project plans and the COUNTY/CITY's Standards. Any work to be done and performed by the RAILROAD working with its employees, shall be subject to the labor regulations applicable to construction contracts for grade crossing projects. The amount of the detailed cost estimate(s) attached hereto will be allotted from available funds and written notice given to RAILROAD by COUNTY/CITY before RAILROAD is authorized to proceed with the work to be performed by RAILROAD under this agreement.

HIGHWAY OVERPASS (if more than one situation applies, leave heading)

- 10) RAILROAD to the extent that its present right, title and interest permits or enables it so to do and without warranty hereby grants to COUNTY/CITY (also 3rd party if applicable) an easement across its right-of-way for the purpose of constructing said overpass(es) and approaches thereto, all as shown on the project plans and in accord with the specifications and special provisions. Said project plans, specifications and special provisions, which are identified by the project number shown above, as finally approved by the RAILROAD and COUNTY/CITY (also 3rd party if applicable), are hereby made a part hereof by reference. Said easement and construction is more particularly described as shown on project plan sheets which are attached hereto and made a part hereof.
- a) Such easement hereby granted is limited to the use for highway purposes of space required for approaches to said bridge(s) and for columns, foundations and other parts of the bridge(s) and is limited vertically by a horizontal surface 20 feet above the roadway surface of said bridge and approaches, together with the use of additional space for aforesaid purpose and for access to the highway facilities for maintenance purposes, it being understood that the easement shall not restrict the RAILROAD from utilizing the air space under said bridge(s) for railroad operations and for wire lines or other facilities which will not encroach on the reasonable requirements for maintaining the highway facilities. All other rights are reserved unto the RAILROAD.

- b) COUNTY/CITY (also 3<sup>rd</sup> party if applicable), in its maintenance of the highway facilities, agrees to obtain permission from the RAILROAD before undertaking any work which may interfere with or be a real or potential hazard to the passage of trains or other railroad operations.
- c) RAILROAD agrees to notify the COUNTY/CITY (also 3<sup>rd</sup> party if applicable) prior to undertaking the use of air space over the easement and prior to starting the construction of any fixed installation, other than its customary signal and communication facilities, within 8 feet of the underside of said bridge(s) or within 15 feet of said easement, it being understood that such use will afford reasonable protection and safety to the highway facilities and highway traffic and will not unreasonably interfere with lighting, ventilation and maintenance of the highway facilities by the COUNTY/CITY (also 3<sup>rd</sup> party if applicable).
- 11) COUNTY/CITY (or 3<sup>rd</sup> party if applicable) will construct and maintain said overpass bridge(s) together with approaches thereto in accordance with the plans, specifications and special provisions which are identified by the project number shown above, approved by all parties, and made a part of this agreement by reference. COUNTY/CITY further agrees that said work shall be done and performed in accordance with the reasonable requirements of RAILROAD in such manner as to prevent interruption of, interference with, or danger or delay to railroad operations.
- 12) The RAILROAD, with its regular construction or maintenance forces and personnel and at its standard schedule of wages and working hours and working in accordance with the terms of its agreements with such employees, will do and perform the work as described in the detailed estimate dated [REDACTED] for \$ [REDACTED], prepared in accord with aforesaid CFR, said estimate being attached hereto and made a part of this agreement. Any work to be done and performed by the RAILROAD not to be done and performed by the regular organized forces of the RAILROAD working under current agreements with its employees, shall be subject to the labor regulations applicable to construction contracts for grade separation projects. The amount of the detailed cost estimate(s) attached hereto will be allotted from available funds and written notice given to RAILROAD by COUNTY/CITY before RAILROAD is authorized to proceed with the work to be performed by RAILROAD under this agreement.

HIGHWAY UNDERPASS (if more than one situation applies, leave heading)

- 13) RAILROAD to the extent that its present right, title and interest permits or enables it so to do and without warranty hereby grants unto the COUNTY/CITY an easement across its right-of-way for the purpose of constructing said highway underpass and approaches thereto, all as shown on the project plans and in accord with the specifications and special provisions. Said project plans, specifications and special provisions, which are identified by the project number shown above, as finally approved by the RAILROAD and COUNTY/CITY (also 3<sup>rd</sup> party if applicable), are hereby made a part hereof by reference. Said easement/construction is more particularly described as shown on project plan sheets which are attached hereto and made a part hereof.
- a) Such easement hereby granted is limited to the use for highway purposes of space required for approaches to said underpass and for abutments, foundations and other parts of the underpass and is limited vertically by the lesser of a horizontal surface 20 feet above the

roadway surface of said underpass and approaches or the bottom of the superstructure beams together with the use of reasonable additional space for aforesaid purpose and for access to the highway facilities for maintenance purposes, it being understood that the easement shall not restrict the RAILROAD from utilizing the air space over said bridge for railroad operations and for wire lines or other facilities which will not encroach on the reasonable requirements for maintaining the highway facilities. All other rights are reserved unto the RAILROAD.

- b) COUNTY/CITY (also 3rd party if applicable), in carrying out its maintenance responsibilities of the highway facilities, agrees to obtain permission from the RAILROAD before undertaking any work which may interfere with or be a real or potential hazard to passage of trains or other railroad operations.
  - c) RAILROAD agrees to notify the COUNTY/CITY (also 3rd party if applicable) prior to undertaking the use of air space over the easements and prior to starting the construction of any fixed installation, other than its customary signal and communication facilities, within 8 feet of the topside of said underpass or within 15 feet of said easement, it being understood that such use will afford reasonable protection and safety to the highway facilities and highway traffic and will not unreasonably interfere with lighting, ventilation and maintenance of the highway facilities by the COUNTY/CITY (also 3rd party if applicable).
- 14) COUNTY/CITY will construct and maintain (or 3rd Party will maintain) said highway underpass and approaches thereto in accordance with the plans, specifications and special provisions which are identified by the project number shown above, approved by all parties, and made a part of this agreement by reference. The COUNTY/CITY further agrees that said work shall be done and performed in accordance with the reasonable requirements of RAILROAD in such manner as to prevent interruption of, interference with or danger or delay to railroad operations.
- 15) The RAILROAD, with its regular construction or maintenance forces and personnel and at its standard schedule of wages and working hours and working in accordance with the terms of its agreements with such employees, will do and perform the work as described in the detailed estimate dated [REDACTED] for \$ [REDACTED], prepared in accord with aforesaid CFR, said estimate being attached hereto and made a part of this agreement. Any work to be done and performed by the RAILROAD not to be done and performed by the regular organized forces of the RAILROAD working under current agreements with its employees, shall be subject to the labor regulations applicable to construction contracts for grade separation projects. The amount of the detailed cost estimate(s) attached hereto will be allotted from available funds and written notice given to RAILROAD by COUNTY/CITY before RAILROAD is authorized to proceed with the work to be performed by RAILROAD under this agreement.

### Option 1: Progress Bills (Actual Cost)

#### BILLING AND PAYMENT

(Headings are for information only, to be removed)

- 16) The COUNTY/CITY shall pay monthly bills promptly upon receipt and verification thereof by the COUNTY/CITY. Upon completion of the work the RAILROAD shall submit one final bill to the COUNTY/CITY and the COUNTY/CITY shall make a conditional final payment promptly upon

verification of the final bill by the COUNTY/CITY. The total liability of the COUNTY/CITY shall not exceed the reimbursable cost of the work as ascertained by computing the items of cost as set forth in the aforesaid CFR. At any time within three years after the date of the conditional final payment the COUNTY/CITY may audit the cost records and accounts of the RAILROAD pertaining to this project and will bill the RAILROAD any amount of any unallowable expenditure made in the conditional final payment of this contract or, if no unallowable expenditure is found, notify the RAILROAD of that fact in writing. If the RAILROAD does not pay any such bill within thirty days of receipt of the bill from the COUNTY/CITY, the COUNTY/CITY may set-off the amount of such bill against the amounts owed the RAILROAD on any then-current agreement between the RAILROAD and the COUNTY/CITY. For audit purposes, the reports, plans, specifications, digital information, field data, notes and cost records and accounts of the RAILROAD pertaining to this project shall be made available to the representatives of the COUNTY/CITY or the Federal Highway Administration at the General Office of the RAILROAD during the progress of the work and for a period of not less than three years from the date conditional final payment has been received by the RAILROAD.

- 17) The RAILROAD expressly agrees that the COUNTY/CITY may set-off against the net payments provided for herein an amount equal to that amount which has been identified by either a State or Federal audit as an unallowable expenditure in any agreement between the RAILROAD and the COUNTY/CITY on which a conditional final payment has been made.
- 18) The COUNTY/CITY shall not be bound to pay any amount in excess of the reimbursable portion of the detailed cost estimate attached hereto, nor for any items of work not provided for in the detailed cost estimate. In the event it is determined that a change in the work to be performed by the RAILROAD will be required or that an increase in cost anticipated will be incurred by the RAILROAD, a written change or extra work order approved by the COUNTY/CITY shall be required.
- 19) The COUNTY/CITY shall not be liable for payment of any bill received more than twelve (12) months after all work under this Agreement is completed unless the RAILROAD and COUNTY/CITY have agreed in advance to an extension of the billing period in writing. Unless an extension of the billing period has been agreed to the COUNTY/CITY may consider payment made up to one year following completion of the work to be final.

## Option 2: Lump Sum

### BILLING AND PAYMENT

(Headings are for information only, to be removed)

- 20) Upon completion of the work covered under this agreement, RAILROAD shall submit to the COUNTY/CITY ten (10) copies of its final lump sum bill in the amount of \$\_\_\_\_\_ as shown in the estimate attached hereto. The COUNTY/CITY shall pay such lump sum bill promptly upon receipt and verification thereof which shall be a complete satisfaction of liability of the COUNTY/CITY hereunder. For audit purposes, the cost records and accounts of the RAILROAD pertaining to this project shall be made available to the representatives of the COUNTY/CITY at the General Office of the RAILROAD during the progress of the work and for a period of not less than three (3) years from the date final payment has been received by the RAILROAD.

The RAILROAD expressly agrees that the COUNTY/CITY may set-off against the net payments provided for herein an amount equal to that amount which has been identified by either a State or Federal audit as an unallowable expenditure in any agreement between the RAILROAD and the COUNTY/CITY on which a conditional final payment has been made. The RAILROAD shall provide appropriate credit for betterment of facilities or payments by third parties, including the prorated share of engineering expenses, in the future Railroad Agreement for installation of the proposed facilities to be designed under this Agreement.

- 21) The amount of the detailed cost estimate(s) attached hereto will be allotted from available funds and written notice given to RAILROAD by COUNTY/CITY before RAILROAD is authorized to proceed with the work to be performed by RAILROAD under this agreement. The COUNTY/CITY shall not be liable for payment of any bill received more than 12 months after all work on this project is completed and the project is accepted by the RAILROAD and COUNTY/CITY unless the RAILROAD has requested an extension of the billing period in writing.

(This next paragraph is for RR participation projects only)

### PARTICIPATION

(Heading is for information only, to be removed)

- 22) The RAILROAD agrees to contribute to the project cost a lump sum amount of \$ \_\_\_\_\_ which represents 5% of the cost of a bridge on \_\_\_\_\_ over the track of the RAILROAD in accordance with Part 646, Subpart B, of CFR. This amount shall be due to the COUNTY/CITY upon statement rendered to the RAILROAD by the COUNTY/CITY upon execution and authorization of this agreement and completion and acceptance of the project.

### CONSULTING ENGINEERING SERVICES

(Heading is for information only, to be removed)

- 23) The RAILROAD shall provide preliminary and (remove the word "preliminary" if there is a separate PE agreement) construction engineering including inspection services as identified and included in the attached estimate. The anticipated scope of services to be provided in connection with construction engineering by consulting engineering firms for the RAILROAD is attached hereto and made a part hereof. Prior to contracting for any consultant work not specifically covered by this agreement, the RAILROAD will submit to the COUNTY/CITY for approval the consultant's proposal containing, but not limited to, a statement of the scope of consultant services, a list of wage rates and classifications to be used by the consultant and an itemized statement of costs estimated to complete the services. Selection and employment of the consultant shall be governed by requirements and procedures contained in Part 646, Subpart B, of CFR.

## CLOSING

(Heading is for information only, to be removed)

- 24) The COUNTY/CITY will require its Contractor to abide by the attached Special Provision for Protection of Railway Interests which will be included in his contract and, before commencing said construction on RAILROAD right-of-way or property, to furnish evidence acceptable to the COUNTY/CITY and the RAILROAD that the Contractor has provided (1) Contractor's Public Liability and Property Damage Liability Insurance, (2) Contractor's Protective Public Liability and Property Damage Liability Insurance and (3) Railroad Protective Liability Insurance in the amounts specified in the Special Provision attached hereto and made a part hereof, all in accord with Part 646, Subpart A, of CFR, current edition, and in a form approved by the COUNTY/CITY and the RAILROAD.
- 25) The COUNTY/CITY agrees that it will secure the payment bond required under Section 13-10-1 (b) (2) (A) of the Official Code of Georgia Annotated and that such bond will cover the work to be done and for the use and protection of all subcontractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of the work provided for in the contract. The COUNTY/CITY will furnish the RAILROAD a photocopy of the bond secured for the project. The COUNTY/CITY will also furnish the RAILROAD with the address of all contractors and sureties that may be a party to the bond and will notify the RAILROAD of any subsequent address changes.
- 26) It shall be the RAILROAD'S responsibility to plan with the Contractor a schedule of operations which will clearly set forth at which stage of the contractor's operations the RAILROAD will be required to perform its work.
- 27) In the event it shall be necessary in connection with or incident to the work of said construction to make any adjustment in facilities of tenants of the RAILROAD, such adjustments shall be handled by the COUNTY/CITY directly with the owner or owners thereof at no expense to the RAILROAD.
- 28) It is agreed that the COUNTY/CITY will furnish the RAILROAD the name, address and telephone number of its representative who will be in charge of the work as part of its letter of authorization to proceed with the work covered under this agreement. The RAILROAD agrees to give said representative reasonable prior notice of the dates upon which work will be done in order that work may be properly inspected and documented for audit. Further, the work covered under this Agreement shall be completed no less than the overall completion date as indicated in the construction agreement entered into between the COUNTY/CITY and the lowest responsive bidder. COUNTY/CITY will notify the RAILROAD in writing of this final completion date.
- 29) It is mutually agreed between the parties hereto that this document shall be deemed to have been executed in \_\_\_\_\_ County, Georgia, and that all questions of interpretation and construction shall be governed by the laws of the State of Georgia.
- 30) The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.



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 herein above written.

**WITNESSES AS TO RAILROAD: RAILROAD NAME HERE**

\_\_\_\_\_  
WITNESS

BY: \_\_\_\_\_

AS ITS \_\_\_\_\_  
(CORPORATE SEAL)

I attest to the genuineness of the Corporate Seal, and I further attest that the above named officer is duly authorized to execute this document.

ATTEST:

BY: \_\_\_\_\_

\*\*\*\*\*

FEIN \_\_\_\_\_ AS ITS \_\_\_\_\_

\*\*\*\*\*

-----  
**WITNESSES AS TO CITY/COUNTY: CITY/COUNTY NAME HERE**

\_\_\_\_\_  
WITNESS

BY: \_\_\_\_\_  
**Name, Mayor/Chairman of Commissioners**

\_\_\_\_\_  
Print Name and Title

FEIN: \_\_\_\_\_

Signed on behalf of the **CITY/COUNTY** pursuant to Resolution dated \_\_\_\_\_.

Approved as to Form:

ATTEST:

\_\_\_\_\_  
**CITY/COUNTY ATTORNEY**

BY: \_\_\_\_\_  
**CITY/COUNTY CLERK OR ATTORNEY**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Original 5/17/2013  
Revised 7/26/2013

**Exhibit A**

**BUY AMERICA**  
**CERTIFICATE OF COMPLIANCE**  
**FOR RAILROAD COMPANIES**

Date \_\_\_\_\_, 20\_\_

WE, \_\_\_\_\_

\_\_\_\_\_

(UTILITY/RAILROAD OWNER)

Address: \_\_\_\_\_

Hereby certify that we are in compliance with the "Buy America" requirements of the Federal regulations 23 U.S.C. 313 and 23 CFR 635.410 of this project.

**(Insert Project No. and Description Here)**

As required, we will maintain all records and documents pertinent to the Buy America requirement, at the address given above, for not less than 3 years from the date of project completion and acceptance, if we do not provide the records and documents during invoicing. If all records and documents pertinent to the Buy America requirement are delivered during invoicing, then we will maintain all records and documents pertinent to the Buy America requirement for not less than three (3) years from the date conditional final payment has been received by the RAILROAD. These files will be available for inspection and verification by the Department and/or FHWA.

We further certify that the total value of foreign steel as described in the Buy America requirements for this project does not exceed one-tenth of one percent (0.1%) of the total contract price or \$2,500.00, whichever is greater.

Signed by \_\_\_\_\_ Title \_\_\_\_\_  
(Officer of Organization)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public/Justice of the Peace

Date: (enter date)

**LOCAL GOVERNMENT NAME HERE**

SPECIAL PROVISION FOR PROTECTION OF RAILWAY INTERESTS

**Project:** \_\_\_\_\_, \_\_\_\_\_ **County**

**PI No.:** \_\_\_\_\_

(Enter description of overall project along with the RR inventory number and RR Milepost affected by the project. Also include the number of trains, the train average or maximum speed, along with a statement about whether passenger trains are present.)

**EXAMPLE:** Traffic signal upgrade project on SR 2/SR 61/US 41/Third Ave at SR 52/US76/Maddox Pkwy in Murray County, Georgia. The work will require construction activities within the right of way of Norfolk Southern Railway Company at RR inv. No. 340660Y, Milepost No. 00C377.23. The average train movement through this area is approximately 22 trains per day at typical speeds of 79 mph. There are no passenger trains at this location.

1. AUTHORITY OF RAILROAD ENGINEER AND HIGHWAY ENGINEER:

The authorized representative of the Railroad, hereinafter referred to as Railroad Engineer, shall have final authority in all matters affecting the safe maintenance of Railroad traffic and facilities including the adequacy of the foundations and structures supporting the railroad tracks and the necessity for flagging during construction.

The authorized representative of the **County/City** Engineer, hereinafter referred to as the Highway Engineer, shall have authority over all other matters as prescribed herein and in the **Local Government's** Standard Specifications, current edition, as may be revised for this project..

2. NOTICE OF STARTING WORK:

A. The Contractor shall not commence any work on Railroad rights-of-way until it has complied with the following conditions:

- (1) Given the Railroad written notice, with copy to the **City/County**, at the addresses shown below and to the Highway Engineer who has been designated to be in charge of the work, at least 10 working days in advance of the date he proposes to begin work on Railroad rights-of-way. If flagging is required, it may take up to 30 days to obtain flagging from the Railroad and no work shall be undertaken until flagging is present at the job site.

Notice to:

**Chief Engineer Bridges and Structures**  
**Norfolk Southern Corporation**  
**1200 Peachtree St., N.E., Box 142**  
**Atlanta, Georgia 30309**  
**(404) 529-1251**

Copy to:

**City/County Engineer**  
**Local Government name here**  
**Address of local government here**

- (2) Obtained written authorization from the Railroad to begin work on Railroad right-of-way. Such authorization may include an outline of specific and general conditions with which he must comply.
  - (3) Obtained written authorization from the Railroad Protective Liability Insurance coverage as required by paragraph 12 herein. It should be noted that Railroad Company does not accept notation of Railroad Protective Insurance on a Certificate of Liability Insurance or for Binders as Railroad Company must have the full original countersigned policy. Further, please note that mere receipt of the policy is not the only issue, but review for compliance. Due to the number of projects system wide, it typically takes a minimum of 45 days for Railroad Company to review.
  - (4) Furnished a schedule for all work within the Railroad rights-of-way as required by paragraph 7 B (1) herein.
- B. The Railroad's written authorization to proceed with the work shall include the names, addresses, and telephone numbers of the Railroad's representatives who are to be notified as hereinafter required. Where more than one representative is designated, area of responsibility of each representative shall be specified.
3. INTERFERENCE WITH RAILROAD OPERATIONS AND PROPERTY:
- A. The Contractor shall so arrange and conduct its work to avoid interference with Railroad operations, including train, signal, and communication services, or damage to the facilities or property of the Railroad or tenants on the right-of-way of the Railroad. Whenever work is liable to affect such operations, safety, facilities, or property, the method of doing such work shall first be submitted to the Railroad Engineer for review and approval, but such approval shall not relieve the Contractor from liability. Any work to be performed by the Contractor which requires flagging and inspection by the Railroad shall be deferred by the Contractor until the flagging and inspection required by the Railroad is available at the job site.
  - B. Whenever work within Railroad rights-of-way is of such a nature that impediment to Railroad operations such as use of runaround or detour tracks or necessity for reduced speed is unavoidable, the Contractor shall schedule and conduct its operations so that such impediment is reduced to the absolute minimum.
  - C. Should conditions arising from, or in connection with the work, require that immediate and unusual provisions be made to protect operations, facilities, and property of the Railroad, the Contractor shall make such provisions. If in the judgment of the Railroad Engineer, or in his absence, the Highway Engineer, such provision is insufficient, either may require or make such provisions as he deems necessary. In any event, such unusual provisions shall be at the Contractor's expense and without cost to the Railroad or the **City/County**.
1. TRACK CLEARANCES
- A. The minimum track clearances to be maintained by the Contractor during construction are shown on the Project Plans. However, before undertaking any work within Railroad right-of-way, or before placing any obstruction over any track, the Contractor shall:
    1. Notify the Railroad's representative at least 72 hours in advance of the work.

2. Receive assurance from the Railroad's representative that arrangements have been made for flagging service as may be necessary.
  3. Receive permission from the Railroad's representative to proceed with the work.
  4. Ascertain that the Highway Engineer has received copies of notice to the Railroad and of the Railroad's response thereto.
5. CONSTRUCTION PROCEDURES:
- A. General:
- Construction work and operations by the Contractor on Railroad rights-of-way, or property, shall be:
1. Subject to the inspection and approval of the Railroad.
  2. In accord with the Railroad's written outline of specific conditions.
  3. In accord with the Railroad's general rules, regulations, and requirements including those relating to safety, fall protection, and personal protective equipment.
  4. In accord with this special provision.
- B. Temporary Excavation:
- The subgrade of an operated track shall be maintained with edge of berm at least 10 feet from centerline of track and not more than 24 inches below top of rail. The Contractor will not be required to make existing section meet this specification if the existing section is substandard, in which case the existing section will be maintained.
- C. Excavation for Structures:
- The Contractor will be required to take special precaution and care in connection with excavating and shoring pits, for construction of bridges, walls, footings, drainage pipes, or structures, under or adjacent to tracks, and any other structures or construction, including the driving of piles or sheeting, adjacent to tracks to provide adequate lateral and vertical support for the tracks and the loads which they carry, without disturbance of track alignment and surface, and to avoid obstructing track clearances with working equipment, tools or other material. The procedure for doing such work, including need of and plans for excavation and shoring shall first be approved by the Railroad Engineer, but such approval shall not relieve the Contractor from liability. Before submission of plans to the Railroad Engineer for approval, such plans shall first be reviewed by the City/County's Engineer. Shoring plans submitted must be prepared, signed and sealed by a Registered Professional Engineer in the state of Georgia.
- D. Demolition, Erection, Hoisting:
- (1) Railroad tracks and other railroad property must be protected from damage during the procedure.
  - (2) The contractor is required to submit a plan showing the location of cranes, horizontally and vertically, operating radii, with delivery or disposal locations shown. The location of all tracks and other railroad facilities as well as all obstructions such as wire lines, poles, adjacent structures, etc. must be shown.

- (3) Crane rating sheets showing cranes to be adequate for 150% of the actual weight of the pick. A complete set of crane charts, including crane, counterweight, and boom nomenclature is to be submitted.
- (4) Plans and computations showing the weight of the pick must be submitted. Calculations shall be made from plans of the existing and/or proposed structure showing complete and sufficient details with supporting data for the demolition or erection of the structure. If plans do not exist, lifting weights must be calculated from field measurements. The field measurements are to be made under supervision of the Registered Professional Engineer submitting the procedure and calculations.
- (5) A data sheet must be submitted listing the types, size, and arrangements of all rigging and connection equipment.
- (6) A complete procedure is to be submitted, including the order of lifts, time required for each lift, and any repositioning or re-hitching of the crane or cranes.
- (7) All erection or demolition plans, procedures, data sheets, etc. submitted must be prepared, signed and sealed by a Registered Professional Engineer in the state of Georgia.
- (8) The Railroad's representative must be present at the site during the entire demolition and erection procedure period.
- (9) All procedures, plans, and calculations shall first be approved by the Highway Engineer and the Railroad Engineer, but such approval does not relieve the Contractor from liability.

E. Blasting:

- (1) The Contractor shall obtain advance approval from the Railroad Engineer and the Highway Engineer for use of explosives on or adjacent to Railroad property. The request for permission to use explosives shall include a detailed blasting plan. If permission for use of explosives is granted, the Contractor will be required to comply with the following:
  - (a) Blasting shall be done with light charges under the direct supervision of a responsible officer or employee of the Contractor and a licensed blaster.
  - (b) Electric detonating fuses shall not be used because of the possibility of premature explosions resulting from operation of two-way train radios.
  - (c) No blasting shall be done without the presence of an authorized representative of the Railroad. At least 72 hours advance notice to the person designated in the Railroad's notice of authorization to proceed (see paragraph 2B above) will be required to arrange for the presence of an authorized Railroad representative and such flagging the Railroad may require.
  - (d) Have at the job site adequate equipment, labor and materials and allow sufficient time to clean up debris resulting from the blasting without delay to trains. Correction of any track misalignment or other damage to Railroad property resulting from the blasting shall be done as directed by the Railroad's authorized representative at the

Contractor's expense. If its actions result in delay of trains, the Contractor shall bear the entire cost thereof.

- (e) Storage of explosives on Railroad property will not be permitted.
  - (f) Furnish satisfactory evidence of XCU (explosion-collapse-underground damage) insurance coverage.
- (2) The Railroad representative will:
- (a) Determine the approximate location of trains and advise the Contractor the approximate amount of time available for the blasting operation and clean-up.
  - (b) Have the authority to order discontinuance of blasting if, in its opinion, blasting is too hazardous or is not in accord with this special provision.

(3) Other Requirements:

Each Railroad has its own requirements for blasting which may include provisions in addition to the above. It is the contractor's responsibility to contact the Railroad before performing any blasting and determine and comply with these requirements. The Contractor shall handle all matters relating to blasting with the Railroad and pay for all costs involved.

F. Maintenance and Repair of Railroad Facilities:

- (1) The Contractor will maintain all ditches and drainage structures free of silt or other obstructions which may result from its operations and provide and maintain any erosion control measures as required by Highway Project plans and contract documents. The Contractor will promptly repair eroded areas within Railroad rights-of-way.
- (2) The Contractor will also repair, or cause to be repaired, any other damage to the property or facilities of the Railroad or its tenants.
- (3) All such maintenance and repair of damages due to the Contractor's operations shall be done at the Contractor's expense.

G. Storage of Materials and Equipment:

Materials and equipment shall not be stored where they will interfere with Railroad operations, nor on the rights-of-way of the Railroad without first having obtained permission from the Railroad Engineer, and such permission will be with the understanding that the Railroad will not be liable for damage to such material and equipment from any cause and that the Railroad Engineer may move or require the Contractor to move, at the Contractor's expense, such material and equipment. All grading or construction machinery that is left parked unattended near the track or on the Railroad rights-of-way shall be effectively immobilized so that it cannot be moved by unauthorized persons. Safety guidelines are given in paragraph 11 herein.

H. Cleanup:

Upon completion of the work, the Contractor shall remove from within the limits of the Railroad rights-of-way, all machinery, equipment, surplus materials, falsework, temporary erosion measures, rubbish or temporary buildings of the Contractor, and leave said rights-

of-way in a neat condition satisfactory to the Chief Engineer of the Railroad or his authorized representative.

6. DAMAGES:

- A. The Contractor shall assume all liability for any and all damages to its work, employees, servants, equipment and materials caused by Railroad traffic.
- B. Any cost incurred by the Railroad for repairing damages to its property or to property of its tenants, caused by or resulting from the operations of the Contractor, shall be paid directly to the Railroad by the Contractor.

7. FLAGGING SERVICES:

A. When Required

Under the terms of the agreement between the **City/County** and the Railroad, the Railroad has sole authority to determine the need for flagging required to protect its operations and facilities. In general, the requirements for flagging will be whenever the Contractor's personnel or equipment are, or are likely to be, working on the Railroad's right-of-way, or within distances as may be specified by Railroad's authorized representative, or across, over, adjacent to, or under a track, or when such work has disturbed or is likely to disturb a railroad structure or the railroad roadbed or surface and alignment of any track to such extent that the movement of trains must be controlled by flagging. These requirements include situations where a crane, or other piece of equipment, is located such that its boom, or extremity, could move and pass within 20 feet of the centerline of a track or within a distance as may otherwise be specified by Railroad's authorized representative. Safety guidelines are given in paragraph 11 herein. **Normally the Railroad will assign one flagman to a project, based on an 8 hour workday and 40 hour workweek, but in some cases more than one may be necessary.**

B. Scheduling and Notification

- (1) Not later than the time that approval is initially requested to begin work on Railroad right-of-way, Contractor shall furnish to the Railroad and the **City/County** a schedule for all work required to complete the portion of the project within Railroad right-of-way.
- (2) The Contractor will be required to give the Railroad representative at least 10 working days of advance notice of intent to begin work within Railroad right-of-way in accordance with paragraph 2.A.(1) of this special provision. Once begun, when such work is then suspended at any time, or for any reason, the Contractor will be required to give the Railroad representative at least 3 working days of advance notice before resuming work on Railroad right-of-way. Such notices shall include sufficient details of the proposed work to enable the Railroad representative to determine if flagging will be required. If such notice is in writing, the contractor shall furnish the Highway Engineer a copy; if notice is given verbally it shall be confirmed in writing with copy to the Highway Engineer. If flagging is required, no work shall be undertaken until the flagman is, or flagmen are, present at the job site. It may take up to 30 days to obtain flagging initially from the Railroad. When flagging begins, the flagman is usually assigned by the Railroad to work at the project site on a continual basis until no longer needed and



cannot be called for on a spot basis. If flagging becomes unnecessary and is suspended, it may take up to 30 days to again obtain flagging from the Railroad. Due to Railroad practices, in some cases it may be necessary to give 5 days' notice before flagging service may be discontinued and payment stopped.

- (3) If, after the flagman is assigned to the project site, unusual circumstances or conditions arise which require the flagman's presence elsewhere, then the Contractor shall delay work on Railroad right-of-way until such time as the flagman is again available. Any additional costs resulting from such delays shall be done by the Contractor and not the **City/County** or Railroad.

#### C. Payment

- (1) The **City/County** will be responsible for paying the Railroad directly for any and all costs of flagging which may be required to accomplish the construction. The **City/County** shall not delegate this responsibility to the Contractor or any subcontractor or any other party. The cost of flagging service is approximately \$\_\_\_\_\_ per hour or \$\_\_\_\_\_ per day based on an 8-hour work day and 40-hour work week. This cost includes the base pay for the flagman, overhead, and generally includes travel expenses, meals, lodging, equipment, etc. The charge to the City/County by the Railroad will be the actual cost based on the rate of pay for the Railroad's employees who are available for flagging service at the time the service is required. Work by a flagman in excess of 8 hours per day and 40 hours per week may result in overtime pay at 1 ½ time the appropriate rate. Also, certain unusual conditions may arise which may result in overtime pay at 2 times the appropriate rate. Railroad work involved in preparing and handling bills may also be charged to the **City/County**. Charges to the **City/County** by the Railroad shall be in accordance with Federal-Aid Highway billing procedures and requirements as contained in applicable provisions of Part 140, Subpart I, and Part 646, Subpart B, of Title 23, Highways, of the Code of Federal Regulations, current edition, and shall further be on the same basis as the City/County would be billed by the Railroad.
- (2) The **City/County** will be billed for flagging services on a periodic basis directly by the Railroad. The **City/County** will promptly pay such bills within 30 days after each bill is rendered. This provision does not affect the obligation of the Contractor under his bond or the rights of the Railroad or the City/County under the bond.

#### D. Verification

- (1) The **City/County** will review and sign the Railroad flagman's semi-monthly time sheet, or other similar documentation, attesting that the flagman was present during the time recorded. The Railroad's flagman may also enter flagging time electronically via the Railroad's electronic billing system. Any complaints concerning flagging must be resolved in a timely manner. If need for flagging is questioned, please contact Railroad's System Engineer of Public Improvements. All verbal complaints will be confirmed in writing by the **City/County** within 5 working days. Address all written correspondence to:

Notice to:  
**Chief Engineer Bridges and Structures**

Copy to:  
**City/County Engineer**

Norfolk Southern Corporation  
 1200 Peachtree St., N.E., Box 142  
 Atlanta, Georgia 30309  
 (404) 529-1251

Local Government name here  
 Address of local government here

- (2) The Railroad flagman assigned to the project will be responsible for notifying the Highway Engineer upon arrival at the job site on the first day (or as soon thereafter as possible) that flagging services begin and on the last day that he performs such services for each separate period that services are provided. The Highway Engineer will document such notification in the project records.

#### 8. TRANSPORTING MATERIALS AND EQUIPMENT ACROSS TRACKS:

- A. Where the plans show or imply that materials of any nature must be hauled across a Railroad, unless the plans clearly show that the **City/County** has included arrangements for such haul in its agreement with the Railroad, the Contractor will be required to make all necessary arrangements with the Railroad regarding means of transporting such materials across the railroad. The Contractor will be required to bear all costs incidental to such crossings whether services are performed by his own forces or by Railroad personnel.
- B. No crossing may be established for use of the contractor for transporting materials or equipment across the tracks of the Railroad Company unless specific authority for its installation, maintenance, necessary watching and flagging thereof and removal, until a temporary private crossing agreement has been executed between the Contractor and Railroad. The approval process for an agreement, normally takes 90 days.

#### 9. WORK FOR THE BENEFIT OF THE CONTRACTOR:

- A. All temporary or permanent changes in wire lines or other facilities which are considered necessary to the project are shown on the plans; included in the force account agreement between the **City/County** and the Railroad; or will be covered by appropriate revisions to same which will be initiated and approved by the **City/County** and the Railroad.
- B. Should the Contractor desire any changes in addition to the above, then it shall make separate arrangements with the Railroad for same to be accomplished, including any required flagging service, at the Contractor's expense.

#### 10. COOPERATION AND DELAYS

- A. It shall be the Contractor's responsibility to arrange a schedule with the Railroad for accomplishing stage construction involving work by the Railroad or tenants of the Railroad. In arranging the schedule the contractor shall ascertain, from the Railroad, the lead time required for assembling crews and materials and shall make due allowance therefore.
- B. No charge or claims of the Contractor against either the **City/County** or the Railroad will be allowed for hindrance or delay on account of railway traffic, any work performed or to be performed by the Railroad, or other delay incident to or necessary for safe maintenance of railway traffic and facilities, or for any delays due to compliance with this special provision..

#### 11. SAFETY GUIDELINES:

- A. Guidelines for Personnel on Railroad Right-of-Way

- (1) All persons shall wear hard hats. Appropriate eye and hearing protection must be used. Working in shorts is prohibited. Shirts must cover shoulders, back and abdomen. Working in tennis or jogging shoes, sandals, boots with high heels, cowboy and other slip-on type boots is prohibited. Hard-sole, lace-up footwear, zippered boots or boots cinched up with straps which fit snugly about the ankle are adequate. Safety boots are strongly recommended. It is required that reflective vests be worn.
  - (2) No one is allowed within 25 feet of the centerline of track without specific authorization from the flagman.
  - (3) All persons working near track while train is passing are to look out for dragging bands, chains and protruding or shifted cargo.
  - (4) No one is allowed to cross tracks without specific authorization from flagman.
  - (5) All welders and cutting torches working within 25 feet of the track must stop when train is passing.
  - (6) No steel tape or chain will be allowed to cross or touch rails without permission.
- B. Guidelines for Equipment on Railroad Right-of-Way
- (1) No crane or boom equipment will be allowed to set up to work or park within boom distance plus 15 feet of the centerline of track without specific permission from railroad official and flagman.
  - (2) No crane or boom equipment will be allowed to foul track or lift a load over the track without flag protection and track time.
  - (3) All employees will stay with their machines when crane or boom equipment is pointed toward track.
  - (4) All cranes and boom equipment under load will stop work while train is passing (including pile driving).
  - (5) Swinging loads must be secured to prevent movement while train is passing.
  - (6) No loads will be suspended above a moving train.
  - (7) No equipment will be allowed within 25 feet of centerline of track without specific authorization of the flagman.
  - (8) Trucks, tractors or any equipment will not touch ballast line without specific permission from railroad official and flagman.
  - (9) No equipment or load movement within 25 feet or above a standing train or railroad equipment without specific authorization of flagman.
  - (10) All operating equipment within 25 feet of track must halt operations when a train is passing. All other operating equipment may be halted by the flagman if the flagman views the operation to be dangerous to the passing train.
  - (11) All equipment, loads, and cables are prohibited from touching rails.

- (12) While clearing and grubbing, no vegetation will be removed from railroad embankment with heavy equipment without specific permission from the Railroad Engineer and flagman.
- (13) No equipment or materials will be parked or stored on Railroad's property unless specific authorization is granted from the Railroad Engineer.
- (14) All unattended equipment that is left parked on Railroad property shall be effectively immobilized so that it cannot be moved by unauthorized persons.
- (15) All cranes and boom equipment will be turned away from track after each work day or whenever unattended by an operator.

## 12. INSURANCE:

A. In addition to any other forms of insurance or bonds required under the terms of the contract and specifications, the Contractor will be required to carry insurance of the following kinds:

- (1) Contractor's Public Liability and Property Damage Liability Insurance.

The Contractor shall furnish to the Railroad and copy to the **City/County** the certificate of insurance in TRIPLICATE as evidence that with respect to the operations it performs it carries regular Contractor's Public Liability Insurance and regular Contractor's Property Damage Liability Insurance both providing for limits of not less than \$2,000,000.00.

- (2) Contractor's Protective Public Liability and Property Damage Liability Insurance.

The Contractor shall furnish the Railroad and copy to the City/County the certificate of insurance in TRIPLICATE as evidence that with respect to the operations performed for it by any subcontractor, it carries in its own behalf regular Contractor's Protective Public Liability Insurance and regular Contractor's Protective Property Damage Liability Insurance both providing for limits of not less than \$2,000,000.00.

**CERTIFICATE HOLDER** for (1) and (2) above is as follows:

**Norfolk Southern Railway Company** ← Insert correct RR info. Here.  
**Three Commercial Place**  
**Norfolk, Virginia 23510-2191**

- (3) Railroad Protective Liability Insurance having a combined single limit of not less than \$2,000,000 each occurrence and \$6,000,000 in the aggregate applying separately to each annual period. If the project involves track over which passenger trains operate, the insurance limits required are not less than a combined single limit of \$5,000,000 each occurrence and \$10,000,000 in the aggregate applying separately to each annual period. Said policy shall provide coverage for all loss, damage, or expense arising from bodily injury and property damage liability, and physical damage to property attributed to acts or omissions at the job site.

The Standards for this protective insurance shall follow the requirements of Part 646, Subpart A, of Title 23, Highways, of the Code of Federal Regulations, current edition.

Railroad protective insurance shall be provided on "ISO-RIMA" (Insurance Services Office – Railroad Insurance Management Association) policy form No. CG 00 35 01 96.

ISO Amendatory Endorsement No. CG 28 31 10 93 should also be included if a policy form number other than the foregoing is used. The equivalent of the foregoing will also be acceptable.

a. **The name insured shall read:**

**Norfolk Southern Railway Company** ← Insert correct RR info. Here.  
**Three Commercial Place**  
**Norfolk, Virginia 23510-2191**  
**ATTN: Risk Management**

- b. The description of operations must appear on the Declarations, must match the project description in this agreement, and must include the appropriate **City/County** project and contract identification numbers.
- c. The job location must appear on the Declarations and must include the city, state, and appropriate highway name/number. NOTE: Do not include any references to milepost on the insurance policy.
- d. The name and address of the prime contractor must appear on the Declarations.
- e. The name and address of the **City/County** must be identified on the Declarations as the “Involved Governmental Authority or Other Contracting Party.”
- f. Other endorsements/forms that will be accepted are::
  - (1) Broad Form Nuclear Exclusion – Form IL 00 21
  - (2) 30-day Advance Notice of Non-renewal or cancellation
  - (3) Required State Cancellation Endorsement
  - (4) Quick Reference or Index Form CL/IL 240240
- g. Endorsements that are NOT acceptable are:
  - (1) Any Pollution Exclusion Endorsement except CG 28 31
  - (2) Any Punitive or Exemplary Damages Exclusion
  - (3) Known Injury or Damage Exclusion from CG 00 59
  - (4) Any Common Policy Conditions Form
  - (5) Any other endorsement/form not specifically authorized in item number 2.f above.

B. Evidence of insurance as required in A. above shall be furnished to the address shown below for review and approval by the Railroad and copied to the **City/County**:

NOTICE TO:

COPY NOTICE TO:

**Risk Management Department**  
**Norfolk Southern Corporation**  
**Three Commercial Place**  
**Norfolk, Virginia 23510-2191**

**City/County Engineer**  
**Local Government name here**  
**Local Government address here**

The project number, description of the work and designation of the job site to be shown on all insurance certificates and policies are as follows:

(Enter same project and railroad information as on first page)

Project: \_\_\_\_\_, \_\_\_\_\_ **County, PI No.** \_\_\_\_\_,

**EXAMPLE:** Traffic signal upgrade project on SR 2/SR 61/US 41/Third Ave at SR 52/US76/Maddoz Pkwy in Murray County, Georgia. The work will require construction activities within the right of way of Norfolk Southern Railway Company at RR inv. No. 340660Y, Milepost No. 00C377.23. The average train movement through this area is approximately 22 trains per day at typical speeds of 79 mph. There are no passenger trains at this location.

- 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 subcontractor to cover his operations. Endorsements to the Prime Contractor’s policies specifically naming subcontractors 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 within the limits of the rights-of-way of the Railroad as evidenced by the formal acceptance by the **City/County** and the Railroad. Insuring companies may cancel insurance by permission of the **City/County** and Railroad or on THIRTY (30) days written notice to the **City/County** and Railroad as follows::

Notice to:

Copy to:

**Risk Management Department**  
**Norfolk Southern Corporation**  
**Three Commercial Place**  
**Norfolk, Virginia 23510-2191**

**City/County Engineer**  
**Local Government name here**  
**Local Government address here**

**13. FAILURE TO COMPLY:**

In the event the Contractor violates or fails to comply with any of the requirements of this special provision:

- (1) The Railroad Engineer may require that the Contractor vacate Railroad property.
- (2) 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 Railroad Engineer and the Highway Engineer.

**H. PAYMENT FOR COST OF COMPLIANCE:**

No separate payment will be made for any 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.

Intentionally Left Blank