

**CONTRACT FOR ACQUISITION OF RIGHT OF WAY  
STATE-AID OR FEDERAL-AID PROJECT  
Reimbursable**

**PROJECT: N/A  
LOCAL GOVERNMENT: Avondale Estates  
STATE ROUTE: SR 10  
P.I. NO.: 0015071**

**STATE OF GEORGIA**

**DEKALB COUNTY**

This Agreement made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by and between the **GEORGIA DEPARTMENT OF TRANSPORTATION** (hereinafter called the **DEPARTMENT**) and **AVONDALE ESTATES** (hereinafter called the **LOCAL GOVERNMENT**).

- CFDA # 20.205 Highway Plan and Construction Cluster**
- CFDA # 20.219 Recreation Trails Program**

**WITNESSETH THAT:**

**WHEREAS**, the **DEPARTMENT** and the **LOCAL GOVERNMENT** propose to let to construction the above indicated project located at **SR 10/US 278 from CS 721/Ashton Place to CR 5206/Sams Crossing**, with the cost of the right of way being distributed between the **LOCAL GOVERNMENT** and the **DEPARTMENT** as hereinafter specified; and

**WHEREAS**, rights of way lying on a designated state or federal route (on-system) are to be acquired in the **DEPARTMENT'S** name by the **LOCAL GOVERNMENT** when closed by deed; and

**WHEREAS**, rights of way lying on a designated state or federal route (on-system) requiring condemnation are to be condemned in the **LOCAL GOVERNMENT'S** name and then transferred to the **DEPARTMENT** by quit claim deed after the condemnation is complete and after the **LOCAL GOVERNMENT** has full and final possession of the right of way; and

**WHEREAS**, rights of way lying on a non-designated state or federal route (off-system) are to be acquired in the **LOCAL GOVERNMENT'S** name by the **LOCAL GOVERNMENT** when closed by deed and remain in the **LOCAL GOVERNMENT'S** name; and

**WHEREAS**, rights of way lying on a non-designated state or federal route (off-system) requiring condemnation are to be condemned in the **LOCAL GOVERNMENT'S** name and remain in the **LOCAL GOVERNMENT'S** name; and

**WHEREAS**, the **DEPARTMENT** is authorized to enter into this contract with the **LOCAL GOVERNMENT** by virtue of Section 32-2-2(a) of the Official Code of Georgia Annotated; and

**WHEREAS**, the **LOCAL GOVERNMENT** is authorized to enter into this contract by virtue of Sections 32-3-3(e), 32-4-41(6), 32-4-42, 32-4-61 and 32-5-25 of the Official Code of Georgia Annotated and by a certain resolution of the City Council, adopted the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; and

**WHEREAS**, said rights of way are to be acquired by **LOCAL GOVERNMENT** in accordance with certain specified requirements of the Federal-Aid Highway Act of 1970, as amended, and regulations of the **DEPARTMENT** in order for the construction cost of said project to be eligible for State or Federal participation.

**NOW, THEREFORE**, in consideration of Ten (\$10.00) Dollars in hand paid to the **LOCAL GOVERNMENT**, the receipt of which is hereby acknowledged, and the mutual promises and covenants hereinafter set out, the **DEPARTMENT** and the **LOCAL GOVERNMENT** agree as follows:

**ITEM I**

The **DEPARTMENT** agrees to reimburse the **LOCAL GOVERNMENT** **Not to Exceed One Million One Hundred Sixty Thousand DOLLARS and No CENTS (\$1,160,000.00)** for eligible reimbursable right of way costs. Reimbursable right of way costs includes land and improvement costs and other costs as specified in 23 CFR 710.203(b).

Rights of way lying on a designated state or federal route (on-system) are to be acquired in the **DEPARTMENT'S** name by the **LOCAL GOVERNMENT** when closed by deed. Rights of way lying on a designated state or federal route (on-system) requiring condemnation are to be condemned in the **LOCAL GOVERNMENT'S** name and then transferred to the **DEPARTMENT** by quit claim deed after the condemnation is complete and after the **LOCAL GOVERNMENT** has full and final possession of the right of way. Rights of way lying on a non-designated state or federal route (off-system) are to be acquired in the **LOCAL GOVERNMENT'S** name by the **LOCAL GOVERNMENT** when closed by deed and remain in the **LOCAL GOVERNMENT'S** name. Rights of way lying on a non-designated state or federal route (off-system) requiring condemnation are to be condemned in the **LOCAL GOVERNMENT'S** name and remain in the **LOCAL GOVERNMENT'S** name.

Reimbursement of acquisition costs will be eligible after completion of the following: all land and improvement acquisition; completion of all property management; completion of all demolition; and, after all occupants have relocated off the project. Further, before any reimbursement of costs occurs, the **LOCAL GOVERNMENT** shall certify in writing to the **DEPARTMENT** that title to all parcels has been acquired and that all property management, all demolition and all relocation has been completed. Said certification will include a statement that "All parcels are vacant and immediately available for construction purposes".

Each valuation and damage expert utilized on this project must be selected from the **DEPARTMENT's** "Approved Appraiser List". The **DEPARTMENT** shall review and approve each selection prior to the **LOCAL GOVERNMENT** contracting with the appraiser. All appraisals will be submitted to the **DEPARTMENT** for review, for approval and to establish fair market value prior to negotiations.

The **LOCAL GOVERNMENT** is responsible for properly flagging, staking, and marking all required right of way and all required easement (temporary or permanent) surveyed boundary lines **PRIOR** to the appraiser inspecting and appraising the property and **PRIOR** to the on-site Negotiation Agent meeting with the property owner to review the required right of way and/or required easement(s).

Except as specified in **ITEM V** of this contract, all counter offers, administrative settlements and legal settlements authority above the fair market value must be reviewed and approved by the **DEPARTMENT** if the **LOCAL GOVERNMENT** desires that the **DEPARTMENT** participate in any increased settlement agreement above the fair market value. It is understood and agreed that the **DEPARTMENT** may participate in a court directed award above the fair market value subject to the availability of funds identified for the project. The **DEPARTMENT** will not be required to participate in any such award increase that is not supported by a court order. It is further agreed between the parties that the **DEPARTMENT** shall be the final arbiter of whether an increase in an award or expense will be reimbursable to the **LOCAL GOVERNMENT**.

## **ITEM II**

The **LOCAL GOVERNMENT** shall ensure at the time of closing that the current, approved deed or easement document reflects the latest revised or current required right of way description and/or easement(s) description.

The **LOCAL GOVERNMENT** will provide its own all legal counsel associated with acquiring properties by deed.

The **LOCAL GOVERNMENT**, or its designated representative, will prepare all Condemnation Petitions in the name of the **LOCAL GOVERNMENT** and will provide all legal counsel and/or litigation associated with acquiring properties through condemnation.

After receipt of the approved and accepted certification from the **LOCAL GOVERNMENT** to the **DEPARTMENT** and where after all acquired parcels on designated state or federal routes, whether by deed or by condemnation, have been executed, quitclaimed, transferred in name from the **LOCAL GOVERNMENT** and recorded in the name of the **DEPARTMENT**, the **DEPARTMENT** will reimburse the **LOCAL GOVERNMENT** pursuant to **ITEM III** herein.

## **ITEM III**

As set forth in **ITEM I** above, the DEPARTMENT will reimburse **One Million One Hundred Sixty Thousand DOLLARS and No CENTS (\$1,160,000.00)** of eligible right of way costs. **The procedure for reimbursement is as follows:**

All files and reimbursement requests shall be directed to the District Local Government Right of Way Coordinator (DLGC) in the **Chamblee District Office**. All reimbursement matters shall first be reviewed at the District Level in accordance with current guidelines and policies. Reimbursement to **LOCAL GOVERNMENT** will be issued from the **General Office in Atlanta** following receipt of all approved documents and the accepted and approved **LOCAL GOVERNMENT** certification.

**Two (2) copies of the following items shall be included for each parcel and activity cost to be reimbursed:**

- 1) Reimbursement of eligible costs associated with properties acquired by deed or easement:**
  - a) Recorded Deed or Easement;**
  - b) Copy of Completed Negotiation Record;**
  - c) Copy of the Approved Option;**
  - d) Executed Closing Statement; and**
  - e) Copy of approved Review Appraisers Report (Form 532).**
  
- 2) Reimbursement of eligible costs associated with properties acquired through condemnation:**
  - a) Copy of the filed, recorded Condemnation Petition with identified docket number;**
  - b) Copy of receipt for monies deposited into court; and**
  - c) Copy of Quitclaim Deed from LOCAL GOVERNMENT to DEPARTMENT for on-system only.**
  
- 3) Reimbursement of eligible property management costs:**
  - a) Copy of verifiable and detailed invoice from the contractor and receipt for payment from the LOCAL GOVERNMENT and any fee contractors employed by the LOCAL GOVERNMENT for Property Management activities.**
  
- 4) Reimbursement of eligible relocation costs:**
  - a) Copy of Relocation Payment Checks;**
  - b) Copy of Executed Relocation Claim Forms; and**
  - c) Copy of the Approval Authorization of Payment Amount**

5) Reimbursement for any other cost(s) not specifically listed above must include an invoice and any other supporting documentation as may be requested by the DEPARTMENT.

Any deviation from or change in the above described procedure must be approved by the State Right of Way Administrator in the Atlanta General Office.

#### **ITEM IV**

The LOCAL GOVERNMENT will ensure that the demolition and removal in their entirety of all buildings, walls, fences, gates, underground storage tanks, other hazardous materials, signs, or any other improvements and structures of any nature or description, lying wholly or partially situated within the right of way and/or easement area, whether surface or subsurface shall be conducted in accordance with and pursuant to any and all pertinent state and federal laws, regulations and procedures, including but not limited to all current laws, regulations and procedures of the U.S. Environmental Protection Agency and the Georgia Environmental Protection Division.

Any demolition and removal shall be in accordance with procedures approved by the DEPARTMENT. The DEPARTMENT will not remove any improvements or structures as clearing and grubbing items.

Any and all contaminated properties will require the DEPARTMENT's approval before being acquired by the LOCAL GOVERNMENT.

#### **ITEM V**

The LOCAL GOVERNMENT has the authority to approve a counter offer or an administrative settlement up to \$20,000 or 10% above the approved Fair Market Value. On legal settlement authority for condemned parcels, the LOCAL GOVERNMENT authority level is 20% or \$20,000, whichever is greater. All other counter offers, administrative settlements and legal settlement authority on condemned parcels must be reviewed and approved by the DEPARTMENT, if the DEPARTMENT is to participate in any increased cost. Any modification whatsoever or any special provision included as an agreement to any document must first be approved and appropriately accepted by the DEPARTMENT. The DLGC in the Chamblee District Office will function as the LOCAL GOVERNMENT liaison with the DEPARTMENT. All counter offers, check requests, and any matters to be considered for agreement will be submitted through the DLGC.

Once a determination has been made by the General Office, the DLGC will notify the LOCAL GOVERNMENT, in writing, of either approval or rejection of the submitted proposal.

The DEPARTMENT will not participate in any portion of a counter proposal which is closed prior to DEPARTMENT review, approval and acceptance.

#### **ITEM VI**

During the life of this contract and prior to completion of the construction work and final acceptance of the project by the **DEPARTMENT**, the **LOCAL GOVERNMENT** agrees not to use convict labor in any way on the project.

#### **ITEM VII**

Once the environmental clearance is obtained and the right of way plans are approved, but prior to right of way authorization, the **LOCAL GOVERNMENT** can begin pre-acquisition activities at its own risk. However, acquisition activities including the making of offers cannot be made until the following has been completed: an acceptable project cost estimate has been submitted, reviewed and approved; right of way funds have been authorized in accordance with 23 CFR Part 710; and, the **DEPARTMENT** has issued a Notice to Proceed to the **LOCAL GOVERNMENT** for any eligible, reimbursable right of way acquisition activities.

The **LOCAL GOVERNMENT** agrees to defend itself from and against any and all suits, if any should arise, involving property titles and/or contaminated properties associated with the acquisition of Rights of Way by deed or condemnation.

#### **ITEM VIII**

The **LOCAL GOVERNMENT** will, as required by law, proceed within fifteen (15) days after being notified by the **DEPARTMENT** to acquire the rights of way for said project free of all encumbrances by gift, deed, easements or condemnation in accordance with the approved plans.

#### **ITEM IX**

The **LOCAL GOVERNMENT** will, in the right of way acquisition procedure, observe and comply with Title 49 Code of Federal Regulations Part 24; Title 23 Code of Federal Regulations Part 710; Georgia Laws 1972, p. 931, as amended; and, in accordance with the requirements as outlined in the Relocation Assistance Manual prepared by the **DEPARTMENT**. The **LOCAL GOVERNMENT** will be responsible for making payments to owners as required under this procedure for any incidental expenses for the transfer of real property for rights of way purposes and any other moving and relocation expenses as required under the law and determined to be proper by the **DEPARTMENT**. Appeals of relocation assistance benefits will be submitted to the **DEPARTMENT** for review. Response to an appeal will be the responsibility of the **DEPARTMENT**. The **LOCAL GOVERNMENT** will, in their acquisition of the right of way, comply with the procedures set forth in Attachment No. 1 - Memorandum of Instructions, attached hereto. During the performance of this Contract, the **LOCAL GOVERNMENT** will also comply with the Regulations of the U. S. Department of Transportation relative to nondiscrimination in State Aid or Federally-assisted programs of said Department in accordance with the stipulations as indicated under Appendix "A", attached hereto.

The **LOCAL GOVERNMENT** shall also comply with all provisions as set forth in ADDENDUM 1, GDOT TITLE VI Assurances as attached hereto, inclusive of APPENDIX A, APPENDIX B and APPENDIX C of attached ADDENDUM 1.

#### **ITEM X**

Where determined to be desirable, **LOCAL GOVERNMENT** will provide rodent control measures as required by the U. S. Department of Transportation prior to the demolition or removal of improvements located within the right of way of the project. The measures employed shall be in accordance with procedures approved by state and local laws and regulations governing rodent control.

#### **ITEM XI**

This Agreement sets forth the entire understanding between the Parties relating to the subject contained herein and supersedes all prior oral and written understandings, arrangements and agreements between the parties relating thereto. It is understood that no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless evidenced by an amendment to this Agreement signed by both the DEPARTMENT and the **LOCAL GOVERNMENT**.

#### **ITEM XII**

The **COUNTY** shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs associated with this Agreement and used in support of its activities and shall make such material available at all reasonable times during the period of this Agreement, and for three years from the date of final payment under this Agreement, for inspection by the GDOT, and any reviewing agencies, and copies thereof shall be furnished upon request.

The **COUNTY** shall comply with federal administrative procedures in accordance with the requirements of the Uniform Grant Guidance, 2 CFR Part 200, as well as related federal and state regulations and instructions. The **COUNTY** will ensure that appropriate corrective action is taken within three months after receipt of any audit for all instances of noncompliance.

#### **ITEM XIII**

1. **TIME IS OF THE ESSENCE IN THIS CONTRACT.**
2. **TERM OF CONTRACT. UNLESS OTHERWISE AMENDED BY THE MUTUAL WRITTEN AGREEMENT OF THE PARTIES HERETO, THIS CONTRACT WILL EXPIRE NO LATER December 31, 2023.**

3. This Agreement is made and entered into in Fulton County, Georgia, and shall be governed and construed under the laws of the State of Georgia.
4. If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent permitted by law and regulation.
5. This Agreement shall inure to the benefit of, and be binding upon the parties hereto, and their respective heirs, executors, successors and assigns.
6. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.
7. The Preamble, Recitals, Exhibits, Addendums and Appendices hereto are a part of this Agreement and are incorporated herein by reference.

**{REMAINDER OF PAGE LEFT INTENTIONALLY BLANK}**



**IN WITNESS WHEREOF**, this instrument has been and is executed on behalf of the **DEPARTMENT** by the Commissioner of the **DEPARTMENT** and on behalf of **LOCAL GOVERNMENT** being duly authorized to do so by the City Council.

Executed on Behalf of the  
**GEORGIA DEPARTMENT OF  
TRANSPORTATION**

this \_\_\_\_\_ day of  
\_\_\_\_\_, 20 \_\_\_\_\_.

**By:**

\_\_\_\_\_  
COMMISSIONER

ATTEST:

\_\_\_\_\_  
TREASURER

Executed on Behalf of  
**City of Avondale Estates**

this \_\_\_\_\_ day of  
\_\_\_\_\_, 20 \_\_\_\_\_.

**By:**

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
WITNESS

FEI# \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

Sworn to and subscribed before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission Expires: \_\_\_\_\_

(Notary Seal)

**RESOLUTION OF THE LOCAL GOVERNMENT**

**STATE OF GEORGIA**

**CITY OF AVONDALE ESTATES**

**BE IT RESOLVED** by the **AVONDALE ESTATES LOCAL GOVERNMENT** City Council and it is hereby resolved, that the foregoing attached Agreement, relative to **P.I. 0015071**, located in **Avondale Estates** be entered into by the **CITY OF AVONDALE ESTATES** City Council, and that \_\_\_\_\_ as Mayor, and \_\_\_\_\_ as City Clerk, be and they are, thereby authorized and directed to execute the same for and in behalf of said City Council.

**PASSED AND ADOPTED, this** \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

**ATTEST:**

\_\_\_\_\_  
CLERK

BY: \_\_\_\_\_  
WITNESS

**STATE OF GEORGIA**

**DEKALB COUNTY**

I, \_\_\_\_\_ as Clerk of the **Avondale Estates City Council** do hereby certify that I am custodian of the books and records of the same, and that the above and foregoing copy of the original is now on file in my office, and was passed by the **Mayor and City Council**.

Witness by hand and official signature, this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

BY: \_\_\_\_\_  
CLERK

## ATTACHMENT NO. 1

### MEMORANDUM OF INSTRUCTIONS

These instructions are to set forth the procedures necessary for the Political Subdivisions of the State of Georgia to follow when acquiring right of way on highway projects where it is proposed to acquire or construct said project with Federal participation for on system projects. On systems projects are those on designated state or federal routes. The Political Subdivision shall make every effort to acquire expeditiously all real property when authorized to proceed.

The Political Subdivision may, when they consider it appropriate, attempt to secure the right of way by donation. To assure the property owner is fully informed of his rights, the request for donation must be made in writing and also set forth that they are entitled to full just compensation, if they so desire. A letter prepared by the Department will be made available to use as a guide. If a property owner requests payment of just compensation, the provisions of paragraph one (1) must be followed.

Nothing herein shall be construed to prevent a person whose real property is being acquired from making a gift or donation of such property, or any part thereof, or of any compensation paid therefore, after such person has been fully informed of his right to receive just compensation for the acquisition of his property.

1. At the initiation of negotiations each owner must be fully informed of his right to receive just compensation for the acquisition of his property. In order to assure just compensation is being offered, the following steps must be taken:
  - A) A General Certified Appraiser and other valuation or damage experts, who is on the Department's approved list, must utilize an appropriate valuation method (appraisal/data book/cost estimate) as determined by the Department.
  - B) The appraiser must give the owner or his designated representative an opportunity to accompany him during his inspection of the property. A statement is to be in the report that this opportunity was provided.
  - C) The report must be adequately documented to support the conclusion of the appraiser and shall be prepared in accordance with the guidelines set forth by the Department.
  - D) The Department must review the appraisal and approve in writing the estimated amount of just compensation to be offered to the property owner.
  - E) The offer must be made in writing for the full amount of the aforesaid estimate of just compensation. Where appropriate, the written offer must state separately the amount for the real property being acquired and the amount attributable to damages to the remaining property.
2. No person occupying real property shall be required to move from his home, farm, or business without at least three (3) months written notice or two (2) months written notice from the time of the closing or condemnation.
3. The Department will furnish copies of letters, settlement and disbursements statements and such other forms, as it may deem necessary or desirable.
4. Copies of all letters, forms, deeds and status reports used in the acquisition of Rights of Way for this project must be forwarded to the Department upon request, for future reference.
5. The LOCAL GOVERNMENT will be responsible for determining benefits and preparing relocation assistance packages. Packages must be submitted to the Department for review and approval prior to offers of benefits being made.

6. Any consultant contracted for negotiation services for the acquisition of right of way for the LOCAL GOVERNMENT must hold either a Real Estate License and be affiliated with a broker, or hold a Real Estate Broker's License in accordance with OCGA Title 43 Chapter 40 unless identified as an exception under Title 43, Chapter 40 of the Official Code of Georgia Annotated. Said consultant must attend any present and all future mandatory training classes required by the DEPARTMENT.

## **APPENDIX “A”**

- A. **COMPLIANCE WITH REGULATIONS:** The contractor shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49, Codes of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the regulations), which are herein incorporated by reference and made a part of this contract.
- B. **NONDISCRIMINATION:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color or national origin in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. The contractor shall 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.
- C. **SOLICITATIONS FOR SUB-CONTRACTS, INCLUDING PROCUREMENT OF MATERIALS AND EQUIPMENT:** In all solicitation either by competitive bidding or negotiation made by the contractor for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-contractor 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 or race, color or national origin.
- D. **INFORMATION AND REPORTS:** The contractor shall provide all information and reports required by the regulations, or directives issued pursuant thereto, and shall 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 or directives. 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 Administrative as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. **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:
1. Withholding of payments to the contractor or under the contract until the contractor complies, and/or
  2. Cancellations, termination or suspension of the contract, in whole or in part.
- F. **INCORPORATION OF PROVISIONS:** The contractor shall include the provisions of Paragraphs “A” through “F” in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any sub-contract or procurement as the State Department of Transportation or Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request the State Department of Transportation to enter into such a result of such direction, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

**The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination  
Assurances  
DOT Order No. 1050.2A**

The Georgia Department of Transportation (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration, is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT including the Federal Highway Administration.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Federal Highway Program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding *source*:

"The Georgia Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, *use*, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligated the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.

9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Georgia Department of Transportation also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the Georgia Department of Transportation access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by Georgia Department of Transportation. You must keep records, reports, and submit the material for review upon request to the Georgia Department of Transportation, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

Georgia Department of Transportation gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Federal Highway Program. This ASSURANCE is binding on Georgia, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Georgia Department of Transportation  
(Name of Recipient)

by   
(Signature of Authorized Official)

DATED 07/15/20



## APPENDIX A

During the performance of this contract, 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 (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, (hereinafter referred to as DOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives 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 Recipient or Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration) as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.

**Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct

as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX B

### CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the GDOT will accept title to the lands and maintain the project constructed thereon in accordance with and in compliance with **Title 23 U.S. Code § 107**, the Regulations for the Administration of Federal Aid for Highways; the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the GDOT all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

#### **(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto GDOT and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the GDOT, its successors and assigns.

The GDOT, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that GDOT will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.

## **APPENDIX C**

### **CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM**

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the GDOT pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, GDOT will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the GDOT will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the GDOT and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX D

### CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by GDOT pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, GDOT will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, GDOT will there upon revert to and vest in and become the absolute property of GDOT and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).