

**INTERGOVERNMENTAL AGREEMENT**  
**BETWEEN**  
**THE GEORGIA DEPARTMENT OF TRANSPORTATION**  
**AND**  
**THE GEORGIA STATE FINANCING AND INVESTMENT COMMISSION**  
**FOR**  
**THE DELEGATION OF THE MANAGEMENT OF THE BUDGET, SCHEDULE,**  
**EXECUTION, AND DELIVERY OF THE PROJECTS CONTAINED IN THE**  
**APPROVED INVESTMENT LIST FOR EACH SPECIAL DISTRICT AS FUNDED**  
**WITH SPECIAL DISTRICT TRANSPORTATION SALES AND USE TAX PROCEEDS**  
**RAISED BY THE TRANSPORTATION INVESTMENT ACT OF 2010**

This INTERGOVERNMENTAL AGREEMENT FOR THE DELEGATION OF THE MANAGEMENT OF THE BUDGET, SCHEDULE, EXECUTION, AND DELIVERY OF THE PROJECTS CONTAINED IN THE APPROVED INVESTMENT LIST FOR EACH SPECIAL DISTRICT AS FUNDED WITH SPECIAL DISTRICT TRANSPORTATION SALES AND USE TAX PROCEEDS RAISED BY THE TRANSPORTATION INVESTMENT ACT OF 2010 (the "Agreement"), effective this 1st day of January, 2013, or the effective date of the imposition of the special district transportation sales and use tax, whichever is first ("Effective Date"), is made and entered into by and among the GEORGIA DEPARTMENT OF TRANSPORTATION, an agency in the executive branch of government of the State of Georgia ("GDOT"), and the GEORGIA STATE FINANCING AND INVESTMENT COMMISSION, a commission in the executive branch of government of the State of Georgia ("GSFIC"), (GDOT and GSFIC are sometimes referred to herein individually as a "Party", and collectively as the "Parties").

**WHEREAS**, GDOT and GSFIC are constitutionally and statutorily empowered to enter into this Agreement pursuant to 1983 Ga. Const. Art. IX, Sec. III, Para. I, as an intergovernmental agreement not exceeding 50 years; and

**WHEREAS**, pursuant to O.C.G.A. § 48-8-240 *et seq.*, the General Assembly adopted the Transportation Investment Act of 2010 (the "Act") which creates twelve (12) special districts of the State and authorizes elections to be held in each special district which would allow each district independently of any other district to approve and authorize the imposition of a special district transportation sales and use tax to fund transportation projects within the special district; and

**WHEREAS**, three (3) of the twelve (12) special tax districts voted to levy the special district sales and use tax on July 31, 2012 by voter referendum: the Central Savannah River Area special tax district, the River Valley special tax district, and the Heart of Georgia-Altamaha special tax district; and

**WHEREAS**, pursuant to O.C.G.A. § 32-2-2 *et seq.*, GDOT is authorized to plan, designate, improve, manage, control, construct, and maintain a state highway system and to have control of and responsibility for all construction, maintenance, or any other work upon the state highway system and all other work which may be designated to be done by GDOT by Title 32 or any other law; and

**WHEREAS**, the Act directs the state revenue commissioner to exclusively administer and collect the special district transportation sales and use tax for the use and benefit of the special district imposing the special district transportation sales and use tax and to disburse the proceeds of the special district transportation sales and use tax as soon as practicable after collection to GSFIC; and

**WHEREAS**, the Act directs GSFIC to maintain and administer the special district transportation sales and use tax proceeds in a trust fund, separate from other funds of GSFIC, on behalf of the special district imposing the special district transportation sales and use tax, to ensure the proper application of the proceeds for the Approved Investment List for each special district; to contract with GDOT for the management of the budget, schedule, execution and delivery of all transportation projects contained in the Approved Investment List(s), except bus and rail mass transit systems and passenger rail in any special district the boundaries of which are not wholly contained within a single Metropolitan Planning Organization (“MPO”); and

**WHEREAS**, the proceeds of the special district transportation sales and use tax are not funds of the State and are held in trust by GSFIC on behalf of the special districts imposing the special district transportation sales and use tax; and

**WHEREAS**, GSFIC, GDOT and the Georgia Department of Revenue (“GDOR”) have entered into a Memorandum of Understanding, which is hereby attached as Exhibit “A” and incorporated by reference as if fully set forth herein, in order to fully cooperate and define each entity’s role in the implementation of the Act.

**NOW THEREFORE**, in consideration of the Parties’ cooperation to perform their duties and responsibilities as set forth in the Act, the Parties hereby agree as follows:

#### **SECTION I: DEFINITIONS**

1. Annual Program Draw Schedule means a projection of total annual cash needs from special district transportation sales and use tax proceeds for each Special District provided by GDOT which includes the anticipated monthly draws for a given fiscal year.
2. Annual Revenue Projection means an estimate of the monthly special district transportation sales and use tax proceeds by Special District for subsequent fiscal years prepared by the Georgia State University Fiscal Research Center.
3. Approved Investment List or Approved Investment List(s) means the investment list approved at the final regional transportation roundtable for each Special District and provided to the Director of Planning in accordance with O.C.G.A. § 48-8-243(b) and as attached as Exhibit A to the Memorandum of Understanding entered into by GSFIC, GDOT and GDOR.

4. Current Project Budget means the current estimated cost for each Project compared to the Original Project Budget, amounts expended to date, and amounts projected to be spent in the current fiscal year. Budgets must reflect all fund sources contributing to the cost of the Project.
5. eTIA is GSFIC's online system for requesting reimbursements from special district transportation sales and use tax proceeds and for managing GSFIC's reporting requirements of the Act.
6. LARP Factor is as created in O.C.G.A. § 48-8-242(6) and means the sum of one-fifth of the ratio between the population of a local government's jurisdiction and the total population of the Special District in which such local government is located plus four-fifths of the ratio between the paved and unpaved centerline road miles in the local government's jurisdiction and the total paved and unpaved centerline road miles in the Special District in which such local government is located.
7. Original Project Budget means the Original Estimated Cost in the "Final Investment List Report TIA 2010" submitted by GDOT to GSFIC as the Approved Investment List.
8. Program means the internal GDOT system for administering the management of the budget, schedule, execution, and delivery of Projects contained on the Approved Investment List(s) for which GDOT is responsible pursuant to the Act.
9. Project means each separately identified investment on an Approved Investment List for each Special District, further defined in O.C.G.A. § 48-8-242(10).
10. Project Element means any incurred cost component of a Project as outlined in O.C.G.A. § 48-8-242(2) and further defined as an Eligible Project Cost as set forth herein.
11. Special District means one of the three (3) special districts which voted to levy the special district transportation sales and use tax: Central Savannah River Area; Heart of Georgia Altamaha; and River Valley.

## **SECTION II: TERM OF AGREEMENT**

1. This Agreement shall commence upon the Effective Date as defined above.
2. This Agreement shall terminate upon the written certification by GDOT to GSFIC that all Projects on the Approved Investment List(s) are complete; when the special district transportation sales and use tax ceases to be imposed; when GDOT has completely distributed all special district transportation sales and use tax proceeds collected to GSFIC; when GSFIC has completely distributed all special district transportation sales and use tax proceeds; and upon the completion of a final annual audit pursuant to O.C.G.A. § 48-8-249(d) and in accordance with Section XIV herein for the fiscal year in which the above events occur.
3. This Agreement may be modified from time to time with the written consent of the Parties.

### **SECTION III: PROJECT DELIVERY**

1. GSFIC delegates to GDOT and GDOT accepts and agrees to be responsible for the management of the budget, schedule, execution, and delivery of the Projects contained in the Approved Investment List(s) for all transportation projects except bus and rail mass transit systems and passenger rail in any Special District the boundaries of which are not wholly contained within a single MPO.
2. In managing the budget, schedule, execution, and delivery of the Projects contained in the Approved Investment List(s), GDOT shall exclusively determine whether a Project is to be designed and constructed by GDOT, by or on behalf of a local government, or by another public or private entity. Regardless of the delivery agent, GDOT is alone responsible for requesting disbursement of special district transportation sales and use tax proceeds from GSFIC pursuant to the provisions set forth in Section VIII herein, reporting progress and performance in the execution, schedule, and delivery of Projects on the Approved Investment Lists(s) to GSFIC pursuant to the provisions set forth in Section VI herein, and providing adequate record-keeping to allow for an annual audit in accordance with O.C.G.A. § 48-8-249(d) and Section XIV herein.

### **SECTION IV: ANNUAL REVENUE PROJECTION**

GSFIC shall provide an Annual Revenue Projection for the subsequent fiscal years to GDOT no later than December 31st of each year. Such Annual Revenue Projection shall include monthly collection estimates by Special District. GSFIC will provide updated revenue projections on a quarterly basis or more frequently if monthly collections vary more than five percent (5%) from projections.

### **SECTION V: ANNUAL PROGRAM DRAW SCHEDULES**

GDOT shall provide to GSFIC, no later than February 15, 2013, the Annual Program Draw Schedule which reflects annual cash needs for each Special District for the remaining four (4) months of fiscal year 2013. Thereafter, the Annual Program Draw Schedule will be due no later than May 31st. GDOT shall use the Annual Program Draw Schedule form. in eTIA or in such other format as GSFIC may prescribe. GDOT will adjust its Annual Program Draw Schedule as needed based upon revised revenue projections, Program needs and/or Project needs.

### **SECTION VI: PROJECT BUDGET, PROJECT REPORTING AND RECORD KEEPING**

1. GDOT shall maintain Current Project Budgets for each Project on the Approved Investment List(s) which shall include the original estimated cost, the current estimated cost (if different from the original estimated cost), amounts expended in prior years, and amounts expended in the current year. A Current Project Budget for the fiscal year ended June 30 is subject to annual audit pursuant to O.C.G.A. § 48-8-249(d) and shall be provided to GSFIC no later than August 30<sup>th</sup> of the following fiscal year. Current Project Budgets will be entered in eTIA or in such other format as GSFIC may prescribe.
2. GDOT shall maintain an adequate record-keeping system for each Project to identify Project budget and amendments, schedule, execution, delivery and annual audit

requirements of O.C.G.A. § 48-8-249(d) and to demonstrate the validity of all expenditures reimbursed or paid by proceeds of the special district transportation sales and use tax.

3. GDOT shall provide on an annual basis revised Current Project Budget to GSFIC to assist in evaluating the progress and performance in the execution, schedule, and delivery of Projects.
4. The LARP factor for a given fiscal year shall apply to collections of the same fiscal year. As a result of the time lag between the collection of special district transportation sales and use tax proceeds by GDOR and the distribution of these proceeds to GSFIC, the first distribution of a given fiscal year is anticipated to be on or about September 1 and the final distribution on or about August 1. GDOT shall provide to GSFIC the LARP Factor applicable for the fiscal year to each local government in each Special District with an approved special district transportation sales and use tax no later than July 31<sup>st</sup> of the then current fiscal year.

#### **SECTION VII: ELIGIBLE PROJECT COSTS**

1. Subject to the terms and conditions set forth in this Agreement, GSFIC is obligated to pay or reimburse only those Eligible Projects Costs as defined in O.C.G.A. § 48-8-242(2) and as set forth herein. This obligation is limited to the amount of special district transportation sales and use tax proceeds remitted to GSFIC by the GDOR net of the local government distributions.
2. Eligible Project Costs are those cost components of a Project on an Approved Investment List outlined in O.C.G.A. § 48-8-242(2), which by way of further detail shall specifically include but is not limited to the costs associated with the following activities performed or prepared by or on behalf of a local government or GDOT:
  - A. Program Administration and Management services to successfully manage the budget, scope, schedule, execution and delivery of the Projects on the Approved Investment List(s) including to but not limited to direct and indirect costs and procurement costs;
  - B. Professional, consulting and other services including but not limited to the following:
    - 1) Design services including surveys and design reviews;
    - 2) Preliminary Construction plans, Right of Way plans and Final Construction plans and all items necessary to develop these plans;
    - 3) Project cost estimating for construction, Right of Way and Utility/railroad at the following project stages: Concept, Preliminary design, Final design and annual updates;

- 4) Bridge & Structural Design including but not limited to surveys and hydraulic and hydrological studies;
- 5) Traffic Studies and design studies including but not limited to signal analysis, roundabout analysis, traffic modeling and simulations, traffic counts and projections;
- 6) Environmental services including but not limited to costs associated with obtaining environmental document approval, such as archaeological, historical, ecological, air, noise, community involvement, environmental justice, flood plains, underground storage tanks, and hazardous waste site studies; obtaining permits including but not limited to Cemetery, TVA and US Army Corps of Engineers permits, Stream Buffer Variances and Federal Emergency Management Agency (FEMA) approvals; meeting Municipal Separate Storm Sewer System (MS4) requirements; mitigation and other approvals necessary to satisfy all applicable environmental rules and laws. The value of any estimated mitigation credits required for a project as set forth in any GDOT bid award will be considered a Project Element. The Commissioner will certify said Project Elements prior to and in preparation for purchasing the mitigation credits;
- 7) Right of Way services, by purchase or otherwise, as needed for Projects on the Approved Investment List, including but not limited to appraisals, market value, preparation and filing of deeds, preparation of settlement documents, preparation of condemnation petitions, condemnation actions, defense of inverse condemnation actions, and compliance with moving and relocation expense reimbursement as required under the applicable law. The value of the estimated market value and/or moving and relocation expenses set forth in Right of Way settlement documents or condemnation petitions will be considered a Project Element. The Commissioner will certify said Project Elements prior to and in preparation for the closing or filing of the condemnation petition;
- 8) Construction services including but not limited to costs associated with construction engineering/inspection, material testing, and claims management;
- 9) Construction bidding, including but not limited to compilation of bid documents, printing, advertising, communicating, administration associated with letting a Project and the development of specifications and special provisions;
- 10) Financial management services including but not limited to revenue and commodity cost projections, financial strategies, and financing strategies;

- 11) Communications services and systems support to provide transparency and to maintain, protect, or promote a reciprocal understanding and favorable relations with the public at large, or any segment of the public.
- C. The establishment of any regional office(s) by GDOT or its agents for the purpose of administering Projects and associated costs with setting up and operating said office(s), such operational expenditures to include the continuing, day-to-day business costs, such as supplies and materials and labor ordinarily needed to operate the office, with prorating of these costs if said regional office(s) are used for other purposes not related to Projects or the Program;
- D. Compliance with O.C.G.A. § 13-10-91 (Security And Immigration Compliance);
- E. Responding to the recommendations or requests for reports from the Citizen's Review Panel as set forth in O.C.G.A. § 48-8-25;
- F. Preparation and holding public meetings, including but not limited to preparation costs, costs of facilities or other costs to provide the public information regarding Projects or the Program;
- G. Utility Relocations where approved including but not limited to the removal, relocation, or adjustment of utilities, utility plans and all costs associated with following GDOT's policies and procedures for identification, coordination and conflict resolution of existing and proposed utility facilities on a Project;
- H. Railroad coordination including but not limited to design and design reviews, Right of Way, relocations, construction, inspection, and flagging;
- I. Inspections by GDOT, or its authorized representatives, agents or employees, of any Project or of the Program;
- J. Audits of both Project and the Program by GDOT or its agents;
- K. Except as may be covered in indemnification provisions contained in other contracts, funds associated with the defense and prosecution of any and all claims, suits, demands, lawsuits, causes of action, liabilities, losses, damages, judgments, costs or expenses (including but not limited to attorneys' fees) of every kind and nature whatsoever due to allegations related to liability to a third party or parties, for any loss due to bodily injury (including but not limited to death), personal injury (including but not limited to death), property damage (including but not limited to inverse condemnation), and monetary damage (including but not limited to construction claims) arising out of, in connection with or resulting from any act or omission of GDOT, a local government, or any entity acting by or on behalf of GDOT or a local government related to any Project or the Program;

- L. Costs incurred by an MPO or Regional Commission which meets the definition of an Eligible Project Cost as set forth herein;
- M. Material costs including but not limited to storage costs, the costs of raw materials, parts, subassemblies, components, and manufacturing supplies, including but not limited to such collateral items as inbound transportation and in-transit insurance, and including those material costs for materials which have been purchased but not yet incorporated into the Project;
- N. Costs of renting or leasing real or personal property or equipment consistent with the terms of the Project contract;
- O. Service and warranty costs consistent with the terms of the Project contract;
- P. Royalties and other costs for use of patents consistent with the terms of the Project contract;
- Q. Any incentive(s) available to a local government or contractor for the completion of a Project or Project Element earlier than as specified in the Project contract, consistent with the terms of the Project contract;
- R. Bonding and insurance costs incurred pursuant to the terms of the Project contract and as required under Georgia law;
- S. Program cost and expenses incurred on or after August 1, 2012 by GDOT staff related to the management and preparation of the management of the budget, schedule, execution, and delivery of the Projects contained in the Approved Investment List(s);
- T. Costs associated with transit projects, including but not limited the following operating and maintenance costs: fuel; labor; routine maintenance; servicing; engineering design and evaluation of transit projects and other technical transportation-related studies; capital investments in bus and bus-related activities such as replacement of buses, overhaul of buses, rebuilding of buses, crime prevention and security equipment and engineering and construction of maintenance and passenger facilities including park and ride lots; capital investments in new systems including rolling stock, overhaul and rebuilding of vehicles, signals, communications, and computer hardware and software; and any other costs in accordance with 49 USC § 5307; and
- U. Costs associated with any airport project including runway, taxiway, hangar, communication and lighting equipment projects, such costs to include but not



limited to preliminary engineering, surveying, geotechnical activities, plans development and reviews, procurement, inspection, and construction.

The above list is not intended to be exhaustive and therefore, except as set forth in Subsection 3 below, the failure to list any item as an Eligible Project Cost in the above list does not imply that it is ineligible.

3. The following items shall not be considered Eligible Project Costs:
  - A. Entertainment costs including but not limited to costs of amusement, diversions, social activities, tickets to shows or sports events, meals, lodging, rentals, transportation, gratuities and costs of membership in social, dining, or country clubs or other organizations having the same purposes;
  - B. Lobbying and political activity costs, through in kind or cash contributions, endorsements, publicity, or similar activities, to include but not limited to the following: (1) attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure; (2) attempts to influence the introduction, enactment or modification of any pending Federal, State, or local legislation; (3) legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in ineligible activities; and (4) attempts to improperly influence either directly or indirectly, an employee or officer of the Federal, State, or local Government to give consideration to or act regarding a regulatory or contract matter;
  - C. Costs of alcoholic beverages;
  - D. Trade, business, technical and professional activity costs, including membership and subscription costs;
  - E. Costs of training and education; and
  - F. Any project costs incurred by or on behalf of any Local Government, Regional Commission or other entity prior to the execution of a contract between the Local Government and GDOT.

## **SECTION VIII: DISBURSEMENT OF FUNDS**

1. The obligation of GSFIC to pay or reimburse any Eligible Project Cost of a Special District's Approved Investment List(s) is expressly limited solely to the amount of

special district transportation sales and use tax proceeds remitted to GSFIC by GDOR net of the local government distributions.

2. Should the proceeds of the special district's transportation sales and use tax be insufficient to meet the payment requests of GDOT as determined by GSFIC in its sole discretion, GSFIC's payment obligation shall terminate without further obligation of GSFIC to the extent that the obligations exceed the availability of such proceeds.
3. GSFIC's certification as to the availability of special district transportation sales and use tax proceeds shall be conclusive.
4. Requests for Disbursement shall be submitted to GSFIC by GDOT and shall include a certification of the completion of the Project or Project Element for which funds are requested and are to be itemized by Special District, Project number, name and amount. All Requests for Disbursements are to have documents supporting the amount of funds requested. All Requests for Disbursement must be submitted through the eTIA program. GSFIC reserves the right to request additional information from GDOT in order to ensure the proper application of proceeds. The Parties agree that timely processing is of critical importance and efforts will be made to promptly resolve any payment disputes.
5. Requests for Disbursement shall be processed by GSFIC within five (5) working days of receipt. Disbursements will be paid by GSFIC to GDOT using an electronic payment method via ACH or wire payment when possible. If a Request for Disbursement is marked "urgent" by GDOT, GSFIC will make all reasonable efforts to process the Request for Disbursement and make payment as soon as practically possible, with the goal of three (3) days. There will be no limitations as to the number and frequency of Requests for Disbursement that may be submitted per month by GDOT to GSFIC.
6. If special district transportation sales and use tax proceeds funds are available, but GSFIC rejects some or all of a Request for Disbursement, GSFIC shall provide an explanation as to the reason for the rejection in writing to the GDOT Commissioner at the time of the rejection. GDOT will thereafter be allowed to resubmit its Request for Disbursement with additional pertinent information or documentation. GSFIC's determination as to whether to reject or pay a Request for Disbursement shall be final. GDOT will be solely responsible to address the rejection of a Request for Disbursement with its contractor, consultant and/or local government.
7. Any overpayment by GDOT to vendors will be netted against the subsequent Requests for Disbursement.
8. GSFIC, in its sole discretion, may disburse special district transportation sales and use tax proceeds to reimburse expenses of any of the Citizen's Review Panel, audit expenses incurred pursuant to O.C.G.A. §48-8-249(d), and GSFIC administrative expenses if special district transportation sales and use tax interest earnings are insufficient to cover these costs.

## **SECTION IX: MINIMUM RESERVES**

1. In order to safeguard the availability of special district transportation sales and use tax proceeds and in accordance with O.C.G.A. § 48-8-242(2)(K), a reserve fund will be established by GSFIC for each Special District. Reserves may be used throughout the year to meet extraordinary cash requirements of GDOT in excess of the annual expenditure projections included in the Annual Program Draw Schedule or in the event monthly revenue collections fall below the Annual Revenue Projection. Reserves will be replenished as soon as special district transportation sales and use tax proceeds allow. GSFIC and GDOT aim to build reserves by no less than three point thirty-three percent (3.33%) per year for the three (3) years to reach a maximum of ten percent (10%) of the total special district transportation sales and use tax district proceeds set aside for Projects on the Approved Investment List(s). GDOT may request that GSFIC increase or decrease these minimum reserve amounts.
2. In years six (6) or later, GDOT will consult with GSFIC as to the amount of the reserves to be drawn down annually when submitting the Annual Program Draw Schedule or at any other time as may be necessary.

## **SECTION X: PRIORITIZATION AND ORDER OF PAYMENTS WHEN SPECIAL DISTRICT PROJECT CASH NEEDS EXCEED AVAILABLE SPECIAL DISTRICT PROCEEDS**

In the event GDOT's monthly cash needs for Projects on the Approved Investment List exceed the balance of Special District funds available, GDOT shall be responsible for establishing a prioritization of payment schedule in accordance with GDOT policy.

## **SECTION XI: DISTRIBUTION OF EXCESS SPECIAL DISTRICT TRANSPORTATION SALES AND USE TAX PROCEEDS**

Upon completion of the Projects on the Approved Investment List(s) and upon notification from GDOT that the net special district transportation sales and use tax proceeds are in excess of the actual costs of the Projects on the Approved Investment List(s), GSFIC shall distribute such excess proceeds among the local governments of the Special District in accordance with O.C.G.A. §48-8-249(e).

## **SECTION XII: INVESTMENT POLICY AND INTEREST EARNINGS**

1. GSFIC shall contract with the State Treasurer to invest the proceeds of the special district transportation sales and use tax in accordance with the following objectives: the preservation of principal, the provision of adequate liquidity to support the projected cash flow needs of the projects, maximizing investment earnings within conservative investment parameters and taking into account liquidity needs, and diversification within relevant statutory and other restrictions to mitigate against risk of loss. GSFIC shall be responsible for monitoring and evaluating the performance of the investment portfolio.
2. Pursuant to O.C.G.A. § 48-8-248 and Ga. Const. Art VII § IV, VII (a), GSFIC is authorized to expend the income earned on the investment of the special district

transportation sales and use tax proceeds to pay operating expenses of GSFIC. To the extent interest earnings are available, GSFIC will utilize such earnings as follows:

- (1) First, to cover current GSFIC administrative expenses related to the Act;
- (2) Second, to reimburse any GSFIC TIA administrative expenses that were previously paid from special district transportation sales and use tax proceeds because interest earnings were not available; and
- (3) Third, as additional earnings are in excess of current year projected expenses of GSFIC and are projected to be in excess of GSFIC expenses for the subsequent fiscal year, the current direct and indirect expenses incurred by GDOT in the management of the budget, schedule, execution, and delivery of the Projects contained in the Approved Investment List(s) or the Program.

### **SECTION XIII: OPEN RECORDS**

Within three (3) business days upon receipt of a written request, a Party shall make any requested books, documents, papers, and records pertaining to implementation of the Act or to the implementation of this Agreement available for inspection and viewing at its office, subject to the provisions of the Open Records Act, O.C.G.A. § 50-18-70 *et seq.*

### **SECTION XIV: AUDIT**

1. GSFIC shall have the right to review and audit the use of funds dispensed to GDOT upon receipt of a complaint or as otherwise warranted.
2. An annual audit shall be paid for by the net tax proceeds available for the Projects on the Approved Investment List for each Special District and conducted by an independent auditing firm as selected by GSFIC. Said audit shall comply with the provisions contained in O.C.G.A. §48-8-249(d), and shall include a schedule which shows for each Project the original estimated cost, the current estimated cost, amounts expended in prior years, and amounts expended in the current year. GDOT shall be responsible for maintaining an adequate record-keeping system for each Project including but not limited to the Project Budget, will cooperate in the preparation of the annual audit and shall provide all information needed to complete the audit as described in O.C.G.A. §48-8-249(d). It is recognized that Projects may include funds from sources other than special district transportation sales and use tax proceeds. For purposes of the annual audit, GDOT shall identify the source of all funds, including funds from sources other than special district transportation sales and use tax proceeds.
3. A final audit will be conducted upon certification by GDOT that all Projects on the Approved Investment List(s) have been completed and all special district transportation sales and use tax proceeds distributed to GDOT from GSFIC have been disbursed.

## **SECTION XV: CITIZEN'S REVIEW PANELS**

1. The Parties acknowledge the creation of a Citizen's Review Panel for each Special District and agree that GDOT shall have primary responsibility to provide data and information as requested by the Citizen's Review Panel created by O.C.G.A. §48-8-251. The Parties acknowledge that they may be asked to consider recommendations from the Citizen's Review Panel, prepare reports and gather information at the request of the Citizen's Review Panel, and assist the Citizen's Review Panel in the preparation of an annual report to be provided to the General Assembly.
2. GDOT and GSFIC will develop suggested guidelines regarding expense eligibility and reimbursement for the Citizen's Review Panel to consider.
3. In accordance with O.C.G.A. §48-8-251, vouchers approved by the chairman of each Citizen's Review Panel will be submitted to GSFIC for payment.

## **SECTION XVI: NOTICES**

Except as otherwise required by law, all notices, request, demands and other communications provided for or necessary for the implementation of this Agreement shall be in writing and either mailed or transmitted electronically to:

If to GDOT:

Keith Golden, P.E.  
Commissioner  
600 West Peachtree Street NW  
Atlanta, GA 30308  
Email: [kgolden@dot.ga.gov](mailto:kgolden@dot.ga.gov)

If to GSFIC Finance:

Susan Ridley  
Director, Financing and Investment Division  
270 Washington Street  
Atlanta, GA 30334  
Email: [susan.ridley@gsfic.ga.gov](mailto:susan.ridley@gsfic.ga.gov)

If to GSFIC Construction:

Marvin Woodward  
Deputy Director, Construction  
270 Washington Street  
Atlanta, GA 30334  
Email: [Marvin.woodward@spo.ga.gov](mailto:Marvin.woodward@spo.ga.gov)

In the event that any of the above identified individuals are no longer serving at their identified position, any notices, requests, demands and other communications shall be sent to the current individual in the position. In the event that any of the above identified positions no longer exist,

any notices, requests, demands and other communications shall be sent to an equivalent position within the Party, as identified by the Party.

## **SECTION XII: MISCELLANEOUS PROVISIONS**

1. **ASSIGNMENT.** Except as herein provided, the Parties hereto will not transfer or assign all or any of their rights, titles or interests hereunder or delegate any of their duties or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld.
2. **NON WAIVER.** No failure of either Party to exercise any right or power given to such Party under this Agreement, or to insist upon strict compliance by the other Party with the provisions of this Agreement, and no custom or practice of either Party at variance with the terms and conditions of this Agreement, will constitute a waiver of either Party's right to demand exact and strict compliance by the other Party with the terms and conditions of this Agreement.
3. **CONTINUITY.** Each of the provisions of this Agreement will be binding upon and inure to the benefit and detriment of GDOT and GSFIC and the successors and assigns of GDOT and GSFIC.
4. **TIME OF THE ESSENCE.** All time limits stated herein are of the essence of this Agreement.
5. **PREAMBLE, RECITALS AND EXHIBITS.** The Preamble, Recitals and Exhibits hereto are a part of this Agreement and are incorporated herein by reference.
6. **SEVERABILITY.** If any one or more of the provisions contained herein are for any reason held by any court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
7. **CAPTIONS.** The brief headings or titles preceding each provision hereof are for purposes of identification and convenience only and should be completely disregarded in construing this Agreement.
8. **GEORGIA AGREEMENT.** This Agreement will be governed, construed under, performed and enforced in accordance with the laws of the State of Georgia.
9. **COUNTERPARTS.** This Agreement is executed in two (2) counterparts which are separately numbered but each of which is deemed an original of equal dignity with the other and which is deemed one and the same instrument as the other.
10. **INTERPRETATION.** 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.

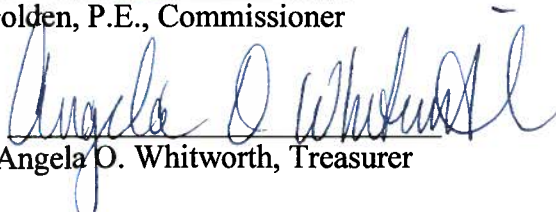
11. **EXECUTION.** Each of the individuals executing this Agreement represents that they are authorized to execute this Agreement on behalf of their respective entities.
12. **NO THIRD PARTY BENEFICIARIES.** Nothing contained herein shall be construed as conferring upon or giving to any person, other than the Parties hereto, any rights or benefits under or by reason of this Agreement.
13. **ENTIRE AGREEMENT.** This Agreement supersedes all prior negotiations, discussion, statements and agreements between GDOT and GSFIC and constitutes the full, complete and entire agreement between GDOT and GSFIC with respect hereto; no member, officer, employee or agent of GDOT or GSFIC has authority to make, or has made, any statement, agreement, representation or contemporaneous agreement, oral or written, in connection herewith, amending, supplementing, modifying, adding to, deleting from, or changing the terms and conditions of this Agreement. No modification of or amendment to this Agreement will be binding on either Party hereto unless such modification or amendment will be properly authorized, in writing, properly signed by both GDOT and GSFIC and incorporated in and by reference made a part hereof.

(SIGNATURES ON FOLLOWING PAGE)

IN WITNESS WHEREOF,

**GEORGIA DEPARTMENT OF TRANSPORTATION**


By:   
Keith Golden, P.E., Commissioner

Attest:   
Angela O. Whitworth, Treasurer




**GEORGIA STATE FINANCING AND INVESTMENT COMMISSION  
Construction Division**

By:   
Steven L. Stancil, Director

Witness: 

**GEORGIA STATE FINANCING AND INVESTMENT COMMISSION  
Financing and Investment Division**

By:   
Susan Ridley, Director

Witness: 



## **LISTS OF EXHIBITS**

**EXHIBIT A: Memorandum of Understanding between GSFIC, GDOT and GDOR dated October 4, 2012.**