

September 24, 1997
Agreement No. DTFH71-97-X-00016
08-98-RLME/CS-MOU-01

FOREST HIGHWAY STATEWIDE AGREEMENT

among

GEORGIA DEPARTMENT OF TRANSPORTATION

and

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

and

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE

for the
Administration of the Forest Highway Program
in the State of Georgia

Parties to Agreement: Eastern Federal Lands Highway Division, Federal Highway Administration, U.S. Department of Transportation, hereinafter called the "FHWA" unless otherwise noted; the Forest Service, U.S. Department of Agriculture, hereinafter called the "FS"; and the Georgia Department of Transportation, an agency of the State of Georgia, hereinafter called the "GDOT".

Purpose: The purpose of this Forest Highway Statewide Agreement (Agreement) is to set forth the general terms and conditions, mutually acceptable to the parties hereto, for those Forest Highways (FH) on the State Highway System of Georgia, pursuant to the provisions of O.C.G.A. Section 32-2-2 (a)(1) for which the GDOT shall plan, improve, manage, control, construct and maintain the State Highway System in the State of Georgia, pursuant to the provisions of 23 U.S.C. Sections 202, 203 and 204 and the regulations issued thereunder jointly by the Secretary of Transportation and the Secretary of Agriculture. Likewise, this Agreement set forth the general Statewide procedures, pursuant to O.C.G.A. Section 32-2-42, Powers of the County with respect to Georgia's county road system and pursuant to O.C.G.A. Section 32-4-92, Powers of municipal governing authorities with respect to Georgia's municipal street system pursuant to the provisions of 23 U.S.C. Section 202, 203 and 204, and the regulations issued thereunder jointly by the Secretary of Transportation and the Secretary of Agriculture. The Agreement also incorporates the public involvement/public hearing requirements of 23 C.F.R. Section 771.111 and 40 C.F.R. parts 1500 through 1508, other associated environmental review procedures under Section 711, and applicable FS requirements.

Under the Federal Lands Highway Program, Congress has authorized funds for FH that are within, or provide access to the National Forest System (NFS). Recognizing that the FH are under the jurisdiction in Georgia as defined in O.C.G.A. Section 32-2-2 (a)(1) State Highway System; or, O.C.G.A. Section 32-4-42 County Road System; or, O.C.G.A. Section 32-4-92 municipal street system, and further that each cooperator, as defined in 23 CFR 660.103, is solely responsible for acquisition and disposition of its system property pursuant to O.C.G.A. Sections 32-2-2 (a)(8), 32-4-42 (3)(A) and 32-4-92 (a)(3) and for maintenance of their respective systems, it is deemed fitting and desirable to the parties hereto to express by this instrument the general terms of their cooperation in that regard to achieve maximum benefits in the public interest as it applies to the respective Systems of roads in Georgia.

As stated in 23 C.F.R. 660.111, the design and construction of FH projects will be administered by the FHWA unless otherwise provided for in a Federal-Aid Project Agreement (PR-2) under this subpart. Through this Agreement, it is recognized that the GDOT may be the agency administering the design and construction of the FH projects, and this Agreement provides procedures for either FHWA or GDOT to administer the projects.

Through this Agreement, it is recognized that the GDOT will administer the design and construction for all FH projects on the State Highway System, and that the agency responsible for the design and construction of FH projects off of the State Highway System will be either the GDOT or the FHWA, with the specific agency identified when the individual FH projects are added to the approved program of projects.

Forest Highway Routes: This Agreement shall cover the FH routes in Georgia previously approved for inclusion in the designated FH network and any approved amendments. The FHWA shall maintain the inventory of the approved designated FH network. The list of such approved routes may be varied from time to time by agreement among the GDOT and FS, with the approval of the FHWA either by adding routes or removing routes or by altering the description of any route to give it proper identity. Each such action shall be indicated by a revised list showing the effective date of the revision.

Transportation Planning/Management Systems: The GDOT agrees that, on FH projects it designs and constructs, it will take actions to ensure that the projects are planned, coordinated and constructed under the guidelines of 23 C.F.R. 771; 23 C.F.R. 450 and O.C.G.A. Title 32. The FHWA agrees that, on FH projects it designs and constructs, it will adhere to the environmental review/public involvement/public hearing procedures required under the guidelines of 23 C.F.R. 771; 23 C.F.R. 450, and will give consideration to the guidelines of O.C.G.A. Title 32 where appropriate. The GDOT agrees to incorporate the long-range FH transportation plan into its long range transportation plan. The GDOT agrees to share information on FH routes in all implemented and applicable management systems. Likewise, the FHWA and the FS agree to share information with the GDOT.

Program of Projects: A program conference will be held biennially or more frequently if deemed necessary including the GDOT, the FHWA, the FHWA Georgia Division, the FS and cooperators where appropriate in accordance with 23 C.F.R. 660.109(a). At these program conferences, FH projects will be discussed to establish the following: (1) scope of the project (2) priority of the project and (3) design and construct agency. Basic design requirements, the project's impact on Forest Service lands, identification of funding sources and Federal Highway Administration project oversight. After agreement has been reached by all parties on the program of projects, the FHWA will prepare the approved, updated program and forward copies to the GDOT and the FS.

For projects that are off of the State Highway System, GDOT will coordinate the execution of the cooperator's Local Government Project Agreement (LGPA) with the agency with jurisdiction and maintenance authority, which assures that all necessary rights-of-way will be acquired and maintenance will be provided by the responsible jurisdiction. An FH project may be identified and added to the approved program of projects prior to execution of the LGPA. However, Forest Highway funds will not be authorized for any phase of work on the project until the LGPA is executed. An FH project for which the LGPA has not been executed, but is anticipated to be

executed, may be moved back in the approved program of projects. An FH project will be deleted from the approved program of projects when it is agreed by the parties that a reasonable effort has been made to obtain the LGPA, but the effort has failed.

The FHWA will provide a copy of the approved program of projects to the GDOT in sufficient time to include the FH projects in the public involvement process for the proposed Statewide Transportation Improvement Program (S.T.I.P.). The GDOT will provide a copy of the FH Program of projects to all applicable Metropolitan Planning Organizations (MPO) for incorporating the project data into its Transportation Improvement Program (T.I.P.). All FH projects will be included in the S.T.I.P. for public review and comment. Upon completion of the public involvement process the Statewide Transportation Improvement Program will be submitted to the FHWA-Georgia Division for approval.

Development of Projects: The intent of the project development process is to keep all agencies informed of all design requirements and considerations, so that these requirements and considerations may be addressed and satisfied at the earliest possible stages of project development. FH projects will be developed in accordance with approved Federal-Aid procedures, while recognizing the roles of the GDOT, the FS and Federal Highway Administration as partners in the Forest Highway program. A project that was identified as exempt from Federal oversight may be elevated to full oversight upon agreement of the parties.

The GDOT's design standards, which may be specific for FH projects on the State Highway System, will be as determined in the concept meeting for the project. When the scope of the project, the use of the road, or the natural and cultural environment indicates that a higher or more stringent standard should be applied, the design standards for the project will incorporate the higher or more stringent standard.

As stated previously, those FH projects not on the State Highway System will be administered by either the GDOT or the FHWA, with the specific agency being identified at the program meeting. If it is found by FHWA that it is in the public interest to have an agency other than the FHWA or the GDOT to be responsible for the administration of an FH project off the State Highway System, a Memorandum of Understanding specific to the project will be executed which will establish the responsibilities of all parties.

If the FHWA administers the project, the FHWA will coordinate all plan reviews with the GDOT and the FS and will obtain written concurrence in the PS&E prior to advertisement of the project for construction. The FHWA will follow established Federal Lands Highway Program procedures for the development of the project, taking established GDOT and FS practices into consideration where appropriate. The FHWA will promptly notify the GDOT of Forest Highway fiscal drawdowns for the FH projects it administers.

If the GDOT administers the project, a concept meeting will be conducted early in the life of the project to establish the scope and objective of the project, including project limits, unusual environmental concerns to be addressed, and features needed to address the program needs of the

cooperators. The FS will be invited to participate in the concept meeting. The FS will provide any guidance or comments to the GDOT at this time necessary to protect the interests of the FS. Following the concept meeting, a Concept Report will be developed and circulated to the FS for review and comment. Comments are to be returned to the GDOT in a timely manner for consideration/ resolution early in the development of the project plans and proposal. Upon completion and acceptance of the concept report by the cooperators, project development will incorporate the project concept parameters. The FS shall be invited to all (field) plan reviews during the development of the project.

On GDOT administered projects, GDOT will obtain written concurrence in the PS&E from the FS, and submit the advertisement PS&E package with evidence of the FS concurrence to the FHWA for FHWA project authorization. Upon FHWA approval that the project was developed in accordance with the approved program, the FHWA will obligate funds and authorize the GDOT to proceed with the advertisement. Except as stated previously for with the FS and the FHWA approval and funding authorization, the GDOT will follow approved Federal-Aid procedures in the administration of the project.

Compliance with Environmental Review/Public Involvement/Public Hearing Requirements in Project Development: The FHWA and the GDOT agree to adhere to all applicable Federal and Georgia CEQ regulations, requirements under the guidelines of 23 C.F.R. 771 and appropriate agency implementing procedures and policies. When the GDOT administers the project, the FHWA Georgia Division will take formal approval action on the environmental documents prepared in accordance with Federal-Aid Procedures.

FH projects that encroach on National Forest System lands will require a greater level of FS review of project area resources and potential project impacts, and more detailed documentation by both the administering agency and the FS. Because the FH project is the proposed action triggering the environmental review process, the FS is to be a Cooperating Agency. Because the FS is required to conduct an evaluation of the proposed highway action resulting in the consent to the appropriation and transfer of lands to the State, County or City, it is appropriate to document the review process and conclusions independently and attach these to the environmental document by appendices. The administering agency and the FS will meet and agree upon the specific scope of the resource surveys, the type and frequency of public involvement actions to be used in the development of the project and the time frame for the FS to complete its decision process for the appropriation of the lands. This will allow both the administering agency and the FS to fulfill their obligations in their own documentation formats, yet tie the coordinated reviews into a single NEPA document consistent with CEQ guidelines. In coordinating the environmental process and the anticipated Federal land transfer, the intent is to coordinate the issuance with the FS Decision Notice for the pending Federal land transfer and the NEPA public involvement process to achieve one joint public involvement process. It is understood that this may require advancing some design activities in order to provide more detailed right-of-way information at the NEPA public involvement stage of the project.

Construction of FH Projects: Minor changes to the construction may be made without prior approval from the other parties of this Agreement. It is the administering agency's responsibility to ensure that such changes do not conflict with any environmental and/or design considerations agreed to in the project development.

All FH construction will be performed by competitive bid contract according to Georgia's bid procedures unless it is found that another process is deemed more cost effective and in the public interest.

The agency administering the FH project will notify the parties to this agreement of the construction contract award amount and invite each to a preconstruction meeting. At this meeting each party to this agreement should discuss with the Project Engineer any concerns related to their agency's responsibilities as they are delineated within the contract. During construction, the FS (and the GDOT, if the FHWA is administering the project) will consult with the Project Engineer on similar issues.

The FHWA and the FS (and the GDOT, if the FHWA is administering the project) will be invited to all FH project Final Inspections. The cooperator is to be invited to Final Inspections for FH projects off the State Highway System.

The FHWA will administer FH projects in accordance with established Federal Lands Highway Program procedures, and in accordance with the applicable Federal acquisition regulations and procedures. The GDOT will administer FH projects in accordance with approved Federal-Aid procedures.

The GDOT will maintain all completed FH projects on the State Highway System, and local cooperators will be responsible for maintenance of FH projects not on the State Highway System.

Funding: The GDOT agrees to supplement all FH projects on the State Highway System with 20% State matching funds. In Georgia all FH projects which are located off the State Highway System will be 100% Forest Highway funding unless local cooperator funds, other Federal-Aid funds or U.S. Dept. of Agriculture FS funds are made available. All financial information/statements related to such funding will be available at any time to the parties to this agreement upon request.

When the FHWA is administering projects funded entirely with FH funding or other funding provided directly to the Eastern Federal Lands Highway Division, all project financial transactions will be processed in FHWA's Sterling, Virginia office.

When any proposed construction is to be administered by the GDOT and financed in whole or part with Federal funds, the FH project financial documents and programming will be completed in the same manner as other regular FHWA Program projects using PR-2, PR-2A, PR-20 and final voucher forms. All forms are to be submitted to: Eastern Federal Lands Highway Division,

FHWA, 21400 Ridgetop Circle, Sterling, Virginia, 20166, through the FHWA Georgia Division office.

If State, local cooperator funds or U.S. Dept. Agriculture FS funds are made available on FH projects, the cost responsibilities and procedures to transfer these funds or to reimburse either the GDOT or the FHWA for eligible project costs shall be covered by a Memorandum of Agreement specific to the project. Any unused balance of these funds will be returned to the provider after closure of the financial records. The amount of cooperative funds as set forth in the Memorandum of Agreement shall be the maximum commitment to the project by that cooperator unless a modification of the Memorandum of Agreement is executed.

Project Agreement: A memorandum of Agreement specific to a project is to be entered into between the GDOT and the FHWA and any cooperators for each project for which (1) the survey, construction, acquisition of right-of-way, or maintenance in connection with a project included in an approved FH program is to be accomplished in a manner different from that set forth in this Agreement, (2) cooperative funds, including Federal funds from programs other than the Federal Lands Highway Program, are made available to the FHWA for the project.

The GDOT will coordinate the execution of the cooperator's Local Government Project Agreement with the agency with jurisdiction and maintenance authority, which assures that all necessary rights-of-way will be acquired and maintenance will be provided by the responsible jurisdiction.

Rights-of-Way: Rights-of-way or other interests of property in Georgia are to be acquired by the appropriate jurisdiction, pursuant to O.C.G.A. Title 32. The cost for such rights-of-way or other interests in property acquired by the appropriate jurisdiction shall be at the expense of such jurisdiction unless otherwise provided in a Memorandum of Agreement specific to the project.

The appropriate jurisdiction will administer the rights-of-way acquisition in Georgia. The GDOT will administer all rights-of-way acquisitions on the State Highway System. County or City units of government will acquire rights-of-way for their respective road/street systems. Each jurisdiction shall certify to the FHWA that the rights-of-way have been acquired in accordance with Federal-aid procedures mandated by the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970, 23 C.F.R. Part 710 and 49 C.F.R. Part 24.

For Federal Land transfers, the agency administering the FH project will prepare the Highway Easement Deed. All Federal Land transfers will be completed in accordance with the Federal-Aid procedures which stipulates the coordination process with Federal agency, the GDOT, the cooperators, the FHWA Division and Regional offices to execute the Federal Lands transfer.

Access to gravel or fill sources, disposal sites, material source sites, etc. on National Forest Lands will require the appropriate Special Use permits for National Forest Lands from the FS.

Claims: The agency administering the FH project will resolve any claims in accordance with established procedures. For GDOT administered projects, these procedures are the established Federal-Aid and State of Georgia procedures. For FHWA administered projects, these procedures are in accordance with the Federal Acquisition Regulations, the Transportation Acquisition Regulations and Manual, and established Federal Lands highway procedures.

Maintenance: The appropriate jurisdiction, whether the GDOT, a County, or municipal government, will maintain the FH project.

Prior to final construction acceptance by the contracting authority, the project shall be inspected by the cooperator, the FS and the FHWA or FHWA Georgia Division office to identify and resolve any mutual concerns. The participation of the FHWA and the FHWA Georgia Division office will be in accordance with approved Federal-Aid procedures.

Amendments to this FH Statewide Agreement: This Agreement may be modified by mutual consent with advance notice of 60 days from any of the three parties of this agreement to the other two.

This Agreement shall be effective as of the 30th day of October, 1997, and shall supersede all prior existing cooperative agreements for the same entered into pursuant to 23 U.S.C. Sections 202, 203, and 204, "Federal Lands Highway Program" except those involving commitment of funds or arrangement for the performance of construction work on specific projects underway but not yet completed and final settlement made.

Georgia Department of Transportation

Department of Agriculture
U.S. Forest Service
Region 8

By: Wayne Shackelford
Title: Commissioner
Date: 10-8-97

By: Shurman P. Hays
Title: Regional Forester
Date: 10/21/97

Department of Transportation
Federal Highway Administration
Eastern Federal Lands Highway Division

By: James L. Anderson
Title: Division Engineer
Date: 11/3/97