

INTERGOVERNMENTAL LIGHTING AGREEMENT

BETWEEN

GEORGIA DEPARTMENT OF TRANSPORTATION

AND

CITY OF STONECREST

THIS AGREEMENT is made and entered into this _____ day of _____, 20__, (“Effective Date”) by and between the **GEORGIA DEPARTMENT OF TRANSPORTATION**, an agency of the State of Georgia, hereinafter called the **DEPARTMENT**, and the **CITY OF STONECREST, GEORGIA** acting by and through its City Council, hereinafter called the **CITY** (the **DEPARTMENT** and the **CITY** are sometimes referred to herein individually as a “Party” and collectively as the “Parties”).

WHEREAS, the **CITY** has represented to the **DEPARTMENT** a desire to obtain roadway lighting as part of the **I-285 @ I-20 - EAST SIDE INTERCHANGE RECONSTRUCTION** project, said lighting to be installed under P.I. No. 0013915, DeKalb County;

WHEREAS, the **CITY** has represented to the **DEPARTMENT** a desire to participate in: 1) Providing the Energy and 2) the Operation and Maintenance of said lighting system at the aforesaid location, and the **DEPARTMENT** has relied upon such representation; and

WHEREAS, the **DEPARTMENT** has indicated a willingness to fund the materials and installation for the said lighting system at the aforesaid location, with funds of the **DEPARTMENT**, funds apportioned to the **DEPARTMENT** by the Federal Highway Administration under Title 23, United States Code, Section 104, or a combination of funds from any of the above sources.

NOW, THEREFORE, in consideration of the mutual promises made and of the benefits to flow from one to the other, the **DEPARTMENT** and the **CITY** hereby agree each with the other as follows:

ARTICLE I **INSTALLATION**

The **DEPARTMENT** or its assigns shall cause the installation of all materials and equipment necessary for roadway lighting as part of the **I-285 @ I-20 - EAST SIDE INTERCHANGE RECONSTRUCTION** project, said lighting to be installed under P.I. No. 0013915, DeKalb County as shown on Attachment "A" attached hereto and made a part hereof.

ARTICLE II **CITY'S RESPONSIBILITIES**

1. Upon completion of installation of said lighting system, and acceptance by the **DEPARTMENT**, the **CITY** shall assume full responsibility and costs for the operation, the repair and the maintenance of the entire lighting system, including but not limited to repairs of any damages, replacement of lamps, ballasts, luminaires, lighting structures, associated equipment, conduit, wiring and service equipment, and the requirements of the Georgia Utility Facility Protection Act. The **CITY** further agrees to provide and pay for all the energy required for the operation of said lighting system.

2. It is understood by the **CITY** that the **DEPARTMENT** has relied upon the **CITY'S** representation of providing for the energy, maintenance, and operation of the lighting represented by this Agreement; therefore, if the **CITY** elects to de-energize or fails to properly maintain or to repair the lighting system during the term of this Agreement, the **CITY** shall reimburse the **DEPARTMENT** the materials cost for the lighting system. If the **CITY** elects to de-energize or fails to properly maintain any individual unit within the lighting system, the **CITY** shall reimburse the **DEPARTMENT** for the material cost for the individual unit which will include all costs for the pole, luminaires, foundations, and associated wiring. The **DEPARTMENT** will provide the **CITY** with a statement of material costs upon completion of the installation.

ARTICLE III **DEPARTMENT'S OWNERSHIP**

The **DEPARTMENT** shall retain ownership of all materials and various components of the entire lighting system. The **CITY**, in its operation and maintenance of the lighting system, shall not in any way alter the type or location of any of the various components which make up the entire lighting system without prior written approval from the **DEPARTMENT**.

ARTICLE IV **TERM OF AGREEMENT**

This Agreement is considered as continuing for a period of fifty (50) years from the date of execution of this Agreement. The **DEPARTMENT** reserves the right to terminate this Agreement, at any time for just cause, upon thirty (30) days written notice to the **CITY**.

ARTICLE V
RIGHT OF ENTRY

The **CITY** will be permitted to access the **DEPARTMENT'S** Right of Way in order to perform its responsibilities under **ARTICLE II, PARAGRAPH 1**, of this Agreement.

ARTICLE VI
INDEMNIFICATION

To the extent allowed by law, the **CITY** and all its successors and assigns, shall release and save harmless the **DEPARTMENT**, past, present and future board members, commissioners, officers, employees, agents, attorneys, affiliates, privies, successors, and assigns, and the State of Georgia, its political subdivisions, departments, agencies, commissions, affiliates, employees, agents, and attorneys from all suits, claims, actions or damages of any nature whatsoever resulting from the **CITY'S** access to **DEPARTMENT'S** Right of Way.

ARTICLE VII
MISCELLANEOUS

1. **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.
2. **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.
3. **SOVEREIGN IMMUNITY.** Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions under the Georgia Constitution.
4. **CONTINUITY.** Each of the provisions of this Agreement will be binding upon and inure to the benefit and detriment of the Parties and the successors and assigns of the Parties.

5. **WHEREAS CLAUSE AND EXHIBITS.** The Whereas Clauses 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. **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.
9. **ENTIRE AGREEMENT.** This Agreement supersedes all prior negotiations, discussion, statements and agreements between the Parties and constitutes the full, complete and entire agreement between the Parties with respect hereto; no member, officer, employee or agent of either Party 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 Parties and incorporated in and by reference made a part hereof.

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

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement the day and year first above written.

**GEORGIA DEPARTMENT
OF TRANSPORTATION**

CITY OF STONECREST

Commissioner

(SEAL)

Print Name: _____
Title: _____

(SEAL)

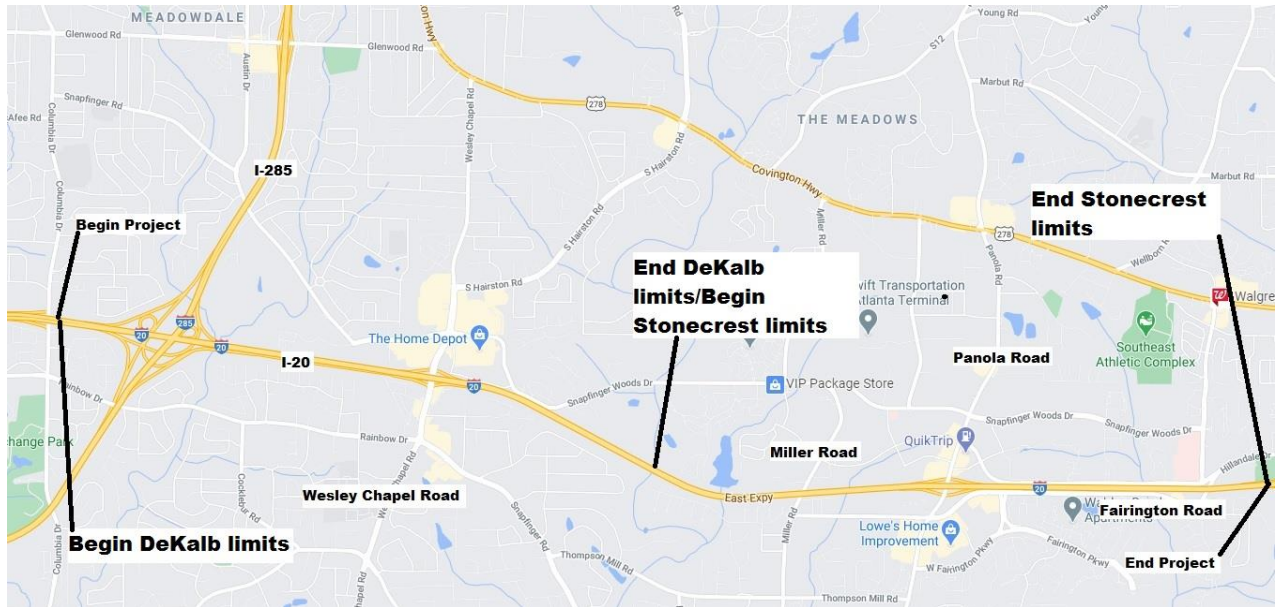
ATTEST:

Treasurer

ATTEST:

Print Name: _____
Title: _____

Attachment "A"



Project Location Map

I-285 @ I-20 - EAST SIDE INTERCHANGE RECONSTRUCTION DeKalb County P.I. No. 0013915