

**LOCAL COORDINATION PROCEDURES  
FOR COMPLIANCE WITH  
SECTION 404(b)(1) OF THE CLEAN WATER ACT**

**GEORGIA DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION  
U.S. ARMY CORPS OF ENGINEERS**

December 17, 2024

## SECTION 404 LOCAL COORDINATION PROCEDURES

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### 1.0 PURPOSE AND APPLICABILITY

#### 1.1 Purpose

This agreement, known as the Local Coordination Procedures (LCP), is a non-binding framework for coordination among the Georgia Department of Transportation (GDOT), the Federal Highway Administration (FHWA) – Georgia Division, and the U.S. Army Corps of Engineers (USACE) – Savannah District, to improve consistency and streamline the process for GDOT projects to demonstrate compliance with Section 404(b)(1) Guidelines of the Clean Water Act (Guidelines). The LCP includes sequential steps to introduce a project, develop alternatives, and identify a preliminary least environmentally damaging practicable alternative (LEDPA) as defined in the Guidelines and in 40 CFR § 230.10(a), which states “Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.”

#### 1.2 Applicability

The LCP is intended to ensure the successful coordination, evaluation, and delivery of GDOT projects involving impacts to waters of the United States (U.S.) that are likely to require either an Individual Permit (IP) or a Regional General Permit (RGP) 35. Such projects must demonstrate adherence to the Section 404(b)(1) Guidelines prior to USACE authorization of impacts. The type of projects that typically require an IP or an RGP 35 are major widenings and new location projects; less frequently, other project types may fall into this category based on expected impacts to waters of the U.S., such as large coastal or coastal plain bridge projects. Projects that would not require an IP or an RGP 35 are not required to follow the LCP process.

The LCP may also be applied to projects that involve a direct recipient of FHWA administered grant funds. In those cases, GDOT would not be involved in the project and the coordination would be among the grant recipient, FHWA, and USACE.

The LCP does not apply to projects that require the preparation of an Environmental Impact Statement (EIS) in accordance with 40 CFR § 1502. When an EIS is anticipated on a project, GDOT shall coordinate with the Lead Federal Agency (LFA) early in project development to conduct the scoping process required by 40 CFR § 1502.4.

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### 2.0 AGENCY PARTICIPATION

#### 2.1 Key Agencies

- On federal-aid projects, the Key Agencies are GDOT, FHWA, and USACE.
- On state-aid projects, the Key Agencies are GDOT and USACE.

#### 2.2 Commenting Resource Agencies

Commenting Resource Agencies are those with specific regulatory responsibilities for environmental resource protection. This group of Commenting Resource Agencies is invited to participate throughout the LCP:

- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service
- Georgia Department of Natural Resources, Environmental Protection Division
- Georgia Department of Natural Resources, Wildlife Resources Division
- Georgia Department of Community Affairs, Historic Preservation Division

For projects that may impact coastal marshlands, tidally influenced waters, anadromous fish species, or coastal-area navigable waters, these additional Commenting Resource Agencies will be invited to participate as well:

- Georgia Department of Natural Resources, Coastal Resources Division
- National Oceanic and Atmospheric Administration/National Marine Fisheries Service
- U.S. Coast Guard

Other agencies with a potential interest in a project shall be invited to participate by GDOT when warranted.

#### 2.3 National Environmental Policy Act Requirements

The LCP does not replace the National Environmental Policy Act (NEPA) evaluation process or the Corps requirements to complete a 404(b)(1) Guideline analysis, including determining the LEDPA. The Corps will determine the LEDPA during

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review of a Section 404 permit application. Requirements under Section 106 of the National Historic Preservation Act (NHPA) and Section 7 of the Endangered Species Act (ESA) will be completed in accordance with applicable statutes, regulations, and agency policies in effect at the time of a Section 404 permit application.

NEPA will be addressed either through project development with FHWA as LFA on federal-aid projects or during the Section 404 permit review with USACE as LFA for state-funded projects. The involvement of FHWA will occur only on those projects committed to federal-aid funding or having another federal nexus which requires FHWA NEPA approval prior to Section 404 permitting.

### **3.0 THE CHECKPOINTS, DEFINED**

A “Checkpoint” (CP) in the context of the LCP is a point in the development of a project at which GDOT will share available project details and request that the other Key Agencies and Commenting Resource Agencies (hereafter, “the agencies”) weigh in on whether there are concerns or “red flags.” The purpose of having multiple points of engagement between GDOT and the agencies is to ensure that agency concerns are considered early in GDOT’s project development process. It should be noted that engagement with agencies early in the project development process carries some risk because the project presented to agencies may change as environmental resources are identified, public involvement informs local sentiment, and design progresses. When there are changes to a project alignment or termini after it is presented to agencies, the project team will need to discuss those changes with the agencies to determine if any CPs must be repeated (see Section 6 of this agreement). Overall, the benefits of early engagement outweigh these risks. Such early input prevents a project from encountering a “red flag” after design has progressed, when the rework and delays would be much more costly.

The LCP consists of three checkpoints which a project proposal may proceed through. These are each defined and described separately in this section, although it is important to note that many projects will treat CP 1 and CP 2 as a single combined step (see Section 4.0 of this agreement for rules related to combining CP 1 and 2). When CP 1 and 2 are combined, the same information is provided to agencies as would be provided if they were handled separately. A project typically completes the LCP after CP 3 with USACE acknowledgement of the non-binding preliminary LEDPA. The USACE may also terminate the LCP prior to CP 3 if it is determined that impacts to waters of the U.S. will not require an IP or an RGP 35.

Each individual CP (or CP 1 and 2 together when they are combined) is initiated when GDOT provides a draft report summarizing the context and recommended findings of the CP to the agencies. The report is followed by an interactive meeting

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in which the GDOT project team, consisting of environmental specialists (NEPA Analysts and Ecologists at a minimum; other disciplines as necessary), design engineers, and project managers, presents the relevant information and leads an open discussion with the agencies. Although all agencies may comment, USACE determines whether GDOT has provided adequate information about a project to satisfy a CP. Details and a timeline for completing the CPs are presented in Section 5.0 of this agreement.

In the following paragraphs, the CPs are defined and described.

### **3.1 Checkpoint 1: Project Introduction**

CP 1 is GDOT's introduction of a project to the agencies. CP 1 typically occurs very early in the development of a project's concept and prior to the start of preliminary design. Information provided by GDOT at CP 1 includes the *preliminary* need and purpose (referred to as "project justification" in GDOT's planning documents), the *preliminary* logical termini, as well as the *preliminary* schedule and budget. In addition, it is appropriate at CP 1 to discuss how adjacent projects – whether in long-range planning, design, or construction – may affect the project in question. Adjacent projects have the potential to influence a project's need and purpose as well as its termini.

During this CP, the agencies are asked to provide input on the preliminary project information that is shared. The agencies may also inform GDOT of significant resources in the project area to ensure they are considered during project development.

### **3.2 Checkpoint 2 – Range of Proposed Alternatives**

At CP 2, GDOT provides information to the agencies on the range of proposed alternatives under consideration as well as the methodology that is proposed for evaluating the environmental impacts of each alternative. "Alternatives" in this context are the transportation solutions developed by the GDOT design team that are considered viable to carry forth through design, permitting, and construction.

The impact of each alternative is estimated using either field-verified data or readily available Geographic Information Systems (GIS) data. Whichever methodology is chosen must be applied consistently to all alternatives under consideration to ensure a like-to-like comparison. New location project alternatives will generally be evaluated using GIS data rather than field-verified data, as it is not practicable to field survey a wide range of alternatives. Widening projects where alternatives follow the existing alignment will generally be compared based on field-identified resources.

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During this CP, agencies are asked to provide input on the range of alternatives under consideration and the proposed methodology for evaluation. Agencies may also provide additional input on significant resources that have the potential to be impacted.

### **3.3 Checkpoint 3 – Practicable Alternatives Review**

At CP 3, the potential impacts of the alternatives are compared using the Practicable Alternatives Review (PAR) process, as if the Corps were carrying out its prescribed Section 404(b)(1) analysis. The primary consideration for evaluating each proposed roadway location and geometric configuration is its estimated impact on waters of the U.S.; other considerations also include, but are not limited to, impacts to community resources, protected species, historic structures, archaeological resources, as well as the cost and constructability. In addition, the quality of the waters of the U.S. that would be impacted by different alternatives can be considered during this step.

During this CP, agencies are asked to provide input on GDOT's review of alternatives and the proposed preliminary LEDPA. A concurrence from USACE at CP 3 indicates agreement on the proposed preliminary LEDPA.

## **4.0 LCP PROCESS – OVERVIEW AND STREAMLINING OPPORTUNITIES**

The LCP is not intended to be prescriptive, as projects each have their own set of challenges, some of which demand more agency attention than others. Individual projects vary in detail such as project type, project history (e.g., prior agency coordination), and the quantity and quality of resources that may be impacted. All of these can play a role in determining the number of touchpoints and meetings needed for a project to complete its pathway through the LCP. Figure 1 presents a flowchart of a project's path through the LCP from start to finish, with several USACE decision points along the way that either shorten or extend the process to fit the complexity of the project.

Not every project that starts the LCP process will touch all three CPs separately. The following are situations where the LCP process can be streamlined by either combining CPs or terminating the process prior to completing all three CPs.

### **4.1 Combining CP 1 and 2**

The option to combine CP 1 and 2 into a single step is generally appropriate for a project that meets both of the criteria described below. If the following criteria are

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met, GDOT may propose combining CP 1 and 2 in a single step. USACE has final discretion as to whether combining is appropriate.

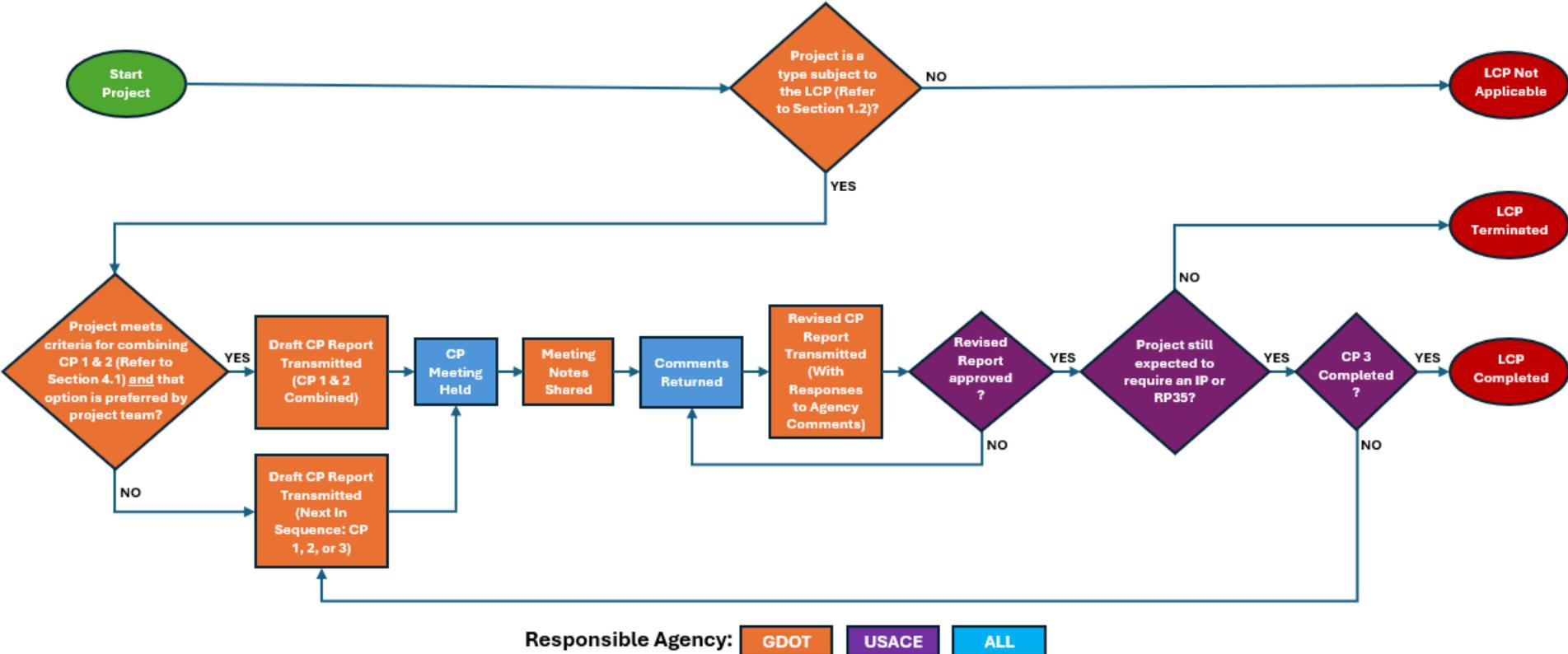
- The project is either a proposed widening that follows an existing road corridor or a proposed bridge replacement. Projects on new location do not qualify for combining CP 1 and 2, as there may be a wide range of alternatives, and a benefit to engaging the agencies before developing those alternatives. Conversely, widenings or bridge replacement projects subject to the LCP under Section 1.2 generally have a limited range of distinct alternatives, meaning that there is minimal effort in adding the range of alternatives to the project introduction. Note: widening projects with a new location segment up to 0.5 miles in length are not disqualified from combining CP 1 and 2 under this criterion.
- The project does not connect to an adjacent project that has the same need and purpose (e.g., project in question is a widening and there is an adjacent widening project) in the long-range planning, engineering, or construction phase. Adjacent projects are an important consideration for a project's need and purpose as well as its termini. When there is an adjacent project with the same need and purpose, the Key Agencies should agree that the project in question has independent utility and a valid preliminary need and purpose at CP 1 before GDOT proceeds with developing the range of alternatives to be presented at CP 2.

When opting to combine CP 1 and 2, GDOT will prepare both a CP 1 Report and a CP 2 Report and provide them to the agencies in a single transmittal. The benefit of combining these CPs should not be seen as a reduction in documentation, but a reduction in the number of submittals, review cycles, and meetings. The USACE retains final discretion for the suitability of combining CPs 1 and 2, and may, upon receiving the combined report, request that a CP 1 Report be submitted on its own prior to proceeding to CP 2.

### **4.2 Early LCP Termination**

Following CP 1 or CP 2 (or a combined CP 1 and 2), USACE may terminate the LCP if it is determined that the project will not require an IP or an RGP 35.

Figure 1. LCP Process Flowchart.



## 5.0 CHECKPOINT PROCESS AND TIMELINE

Whether a project is at CP 1, CP 2, CP 1 and 2 combined, or CP 3, the steps and allotted time between steps are the same (See Figure 2). In this section, each of the steps from initiation to completion is described. Additional time can be added to any of the steps if requested by a Key Agency and agreed upon by the other Key Agencies.

Figure 2: Standard CP Steps and Timeline.



### 5.1 Checkpoint Steps

Step 1 – Draft CP Report: GDOT initiates the CP by providing the agencies with a Draft CP Report.

Step 2 – CP Meeting: A minimum of 15 business days after GDOT transmits the Draft CP Report to the agencies, a CP meeting will be held. GDOT will schedule and lead the CP meeting, which will summarize the information in the Draft CP Report, typically through PowerPoint slides; an open discussion will follow in which agencies may ask questions of the GDOT project team. Agency personnel who express comments or concerns verbally during the CP meeting should also submit their comments to GDOT electronically to ensure that they are accurately recorded.

When a CP meeting is needed, the GDOT project team may reserve a timeslot in the GDOT Interagency Review Team (IRT) meeting by contacting GDOT’s State Environmental Liaison. GDOT IRT meetings are generally held quarterly and include the Key Agencies and the Commenting Resource Agencies on a standing invitation. If a project schedule does not align with the IRT dates, GDOT may arrange a project-specific CP meeting. CP Meetings will include the GDOT project team and at least one representative of the other Key Agency or Agencies. Commenting Resource Agencies will be invited, but the meeting may take place without them if they decline,

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do not respond to inquiries about their availability, or are not in attendance for an unknown reason. CP Meetings will generally be held virtually.

Step 3 – Meeting Notes: Within 5 business days after the CP Meeting, GDOT will circulate meeting notes. The meeting notes will capture the main points of discussion during the meeting; these can be used to clarify CP details and may assist agencies in framing their written comments.

Step 4 – Agency Comments: Agencies may return written comments by email at any time from the date of receipt of the Draft CP Report until 5 business days after the CP meeting notes are circulated. Agency comments should be shared with all agencies electronically so that all are aware of the comment or concern being raised.

Step 5 – Revised CP Report: Within 30 business days following the deadline for agency comments, GDOT will submit a revised CP Report. The revised report will address any requested edits; in addition, an appendix will be included that will list all written comments received from agencies along with GDOT's response to each.

Step 6 – CP Approval or Comments: Within 10 business days after receiving the Revised CP Report, the USACE will either acknowledge conclusion of the CP, submit additional comments for GDOT to address or request a supplemental CP meeting. Other agencies may comment but it is incumbent on USACE to determine whether to acknowledge conclusion of the CP, proceed to the next step in the LCP, or hold a supplemental meeting.

If comments are returned to GDOT at Step 6, GDOT will have 10 business days to provide an updated report that addresses the comments. USACE will then have 10 additional business days to determine whether the comments have been adequately addressed. This process will be repeated as necessary until comments are resolved satisfactorily and USACE determines that the CP can be considered complete.

### **5.2 Checkpoint Completion**

The completion of a CP will be indicated by USACE signature in the report. The report will have a signature page with a line for USACE signature to acknowledge completion of the CP, along with checkboxes for USACE to indicate whether the project should proceed to the next CP or terminate the LCP (i.e., project has completed CP 3 or impacts to waters of the U.S. are not expected to require an IP or an RGP 35). Approval of a project completing CP 3 represents acceptance of a non-binding preliminary LEDPA, pending final decision-making authority under Section 404(b)(1) guidelines.

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### 5.3 Conflict Resolution

If a disagreement among the Key Agencies on a given CP has not been resolved following a supplemental meeting, a conflict resolution meeting may be requested by one of the Key Agencies. This meeting will include all Key Agencies, with the State Environmental Administrator representing GDOT, the Savannah District Regulatory Chief representing USACE, and the Environmental Team Leader representing FHWA. Following that meeting, USACE will provide a final decision as to whether the project can proceed to the next step under the LCP. If USACE determines that a project cannot proceed as presented, then GDOT will revise the project and, if the revised project still requires an IP or an RGP 35, re-engage with the agencies under the LCP. USACE may elect to terminate the LCP if they determine that the project cannot proceed as presented. In such an instance, the Corps and GDOT will use the normal permit process.

### 6.0 WHEN TO REVISIT LCP DECISIONS

In this section, two scenarios are discussed in which reopening the decisions made under the LCP may be appropriate. The two scenarios are very similar and there is overlap in how they are handled. The difference between these is that the first – Project Changes – refers to situations where a project has previously completed one or more CPs before undergoing alignment or termini shifts, while the second – Legacy Projects – refers to projects that previously completed LCP coordination, but subsequently had several years of dormancy before becoming active again. In either scenario, it is critical for the GDOT project team to coordinate with the Key Agencies to ensure that all parties are comfortable with the LCP decisions made before an application is submitted for an IP or an RGP 35.

It should be noted that there is no specific date after which LCP decisions expire and changes to the project as well as changes to related laws, regulations, or policies, including but not limited to changes that affect previous coordination under Section 7 of the Endangered Species Act of 1973 or Section 106 of the National Historic Preservation Act, will generally determine if it is appropriate to reopen LCP coordination. If a project has not changed significantly between the time that it goes through the LCP and the time when a permit application is submitted, then the decisions, including the agreement on a non-binding preliminary LEDPA will generally not need to be revisited. However, GDOT may wish to re-engage under the LCP for either of the two scenarios below to minimize the risk that during review of the permit application, USACE will request that less damaging alternatives for a project must be considered to comply with the 404(b)(1) guidelines.

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### 6.1 Project Changes

Because LCP coordination takes place early in the plan development process, there is the potential for a project to change from the concept phase. This is an inherent risk of the LCP, with the benefits of early agency input outweighing the danger that changes will be significant enough to call the preliminary LEDPA into question. Design refinements that do not change a project alignment or termini typically do not affect the previous LCP CP1 decisions. The types of changes that may render the preliminary LEDPA no longer viable are those that shift the alignment or the termini. These types of changes can occur for several reasons, such as the presence of environmentally sensitive resources, shifting or newly identified public sentiment, shifting or newly identified traffic patterns, or budgetary considerations.

When alignment or termini changes occur after one or more CPs are complete, it is important for the project team to re-engage with the Key Agencies. That re-engagement will typically be in the form of a meeting in which the GDOT project team will summarize the past LCP coordination and the project changes, so that USACE may decide whether additional coordination is appropriate. A project that has only completed CP 1 or CP 2 at the time of the alignment change may be allowed to proceed to the next CP or may be required to back up and repeat a CP. This will be a joint decision of the Key Agencies and will consider unique project circumstances in determining if the changes warrant repeating any completed CPs before moving forward.

A project that has completed CP 3 will generally re-enter the LCP by submitting an updated CP 3 (PAR) Report and scheduling a CP 3 Update Meeting, following the same steps and timeline described in Section 5. If changes are minor, the completed CP 3 may be considered valid. For more significant changes, it may be necessary to update CP 1 and CP 2 Reports; if so, these will be provided along with the updated CP 3 Report in a single package. Because agencies will already be familiar with a project at this point, it will generally not be necessary to start the LCP from the beginning; a single additional submittal and meeting will usually be sufficient.

In each case, the decision on a path forward will be documented in an “LCP Re-entry Plan,” which lists out agreed-upon steps a project must take to complete the LCP following project changes. This plan will be drafted by the GDOT project team and shared electronically with the Key Agencies for comment or concurrence.

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### **6.2 Legacy Projects**

A “Legacy Project,” in the context of the LCP, is a project that had an approved PAR Report before being placed on hold by GDOT, usually due to GDOT prioritization. When a legacy project re-emerges – sometimes several years after the PAR – it is important for the project team to re-engage with the Key Agencies prior to initiating a permit application to determine if the decisions made under the LCP should be reconsidered. As described above, the re-engagement will typically be in the form of a meeting in which the GDOT project team summarizes the past LCP coordination and any project changes, and a decision is made as a group as to whether additional coordination is appropriate. If it is determined that the LCP decisions must be reopened, the GDOT project team and the Key Agencies will develop an “LCP Re-entry Plan,” which will list out the agreed-upon steps to complete the LCP. This plan will be drafted by the GDOT project team and shared electronically with the Key Agencies for comment or concurrence. Most projects in this scenario will re-enter the LCP by submitting an updated CP 3 (PAR) Report and scheduling a CP 3 Update Meeting.

## **7.0 ADMINISTRATIVE PROCEDURES**

### **7.1 Amendment**

Key Agencies may propose amendments to this Agreement at any time; amendments will be adopted upon written concurrence from GDOT, USACE, and FHWA. Each amendment shall be listed in Appendix A: Amendment Log. The log will provide a description of the proposed change and the effective date.

### **7.2 Annual Review**

By August 15 of each year, GDOT will provide a draft annual report to the other Key Agencies, covering activities conducted under this agreement during the previous GDOT fiscal year (July 1-June 30).

By September 15 of each year, a meeting of the Key Agencies will be held to discuss the draft report, unless all Key Agencies decide that a meeting is not necessary.

By September 30 of each year, GDOT will provide a final report, incorporating any additions or revisions requested by other Key Agencies, unless all parties agree upon a different due date.

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### **7.3 Termination**

Any Key Agency may terminate this Agreement by notifying the other Key Agencies in writing thirty (30) business days prior to termination.

### **7.4 Term and Renewal**

The Agreement will be valid for a period of five (5) years with an option to renew afterward. One-hundred and eighty (180) business days (approximately 9 months) prior to the conclusion of the five (5)-year period, GDOT will notify all other Key Agencies in writing about the impending expiration. If there are no objections, the terms of the Agreement will automatically be extended for an additional five (5) years. If any Key Agency objects to extending the Agreement, the Key Agencies will meet to discuss necessary steps to avoid termination. No stipulations of this Agreement are intended to affect the statutory or regulatory authorities of the agencies involved.

## **APPROVAL SIGNATURES**

By:

*Russell R. McMurry*

**Russell McMurry, P.E.  
Commissioner  
Georgia Department of Transportation**

Date:

1/8/2025

By: *Sabrina S. David*

Date: 01/13/2025

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**Sabrina David, AICP  
Division Administrator  
Federal Highway Administration, Georgia Division**

By:

Date:

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**Ronald J. Sturgeon, PMP  
Colonel, Engineer  
Commander, Savannah District  
U.S. Army Corps of Engineers**

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**APPENDIX A:  
AMENDMENT LOG**

<b>SECTION</b>	<b>AMENDMENT DESCRIPTION</b>	<b>EFFECTIVE DATE</b>