ARC-MARTA OFFSET FUNDS
INTERGOVERNMENTAL AGREEMENT BETWEEN

THIS INTERGOVERNMENTAL AGREEMENT, (hereinafter referred to as "Agreement") entered into as of the ____ day of _____, 2010 by and between CITY OF DORAVILLE, GEORGIA (hereinafter referred to as the "City") and the METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY, (hereinafter referred to as the "MARTA"), on occasion both entities are referred to as "parties" or "party."

WITNESSETH THAT:

WHEREAS, by virtue of action taken by the Atlanta Regional Commission (ARC) whereby certain federal funds were transferred to MARTA and, in exchange, MARTA committed to fund qualified projects contained in the Transportation Improvement Plan (TIP) from MARTA's capital budget; and

WHEREAS, The City's share of funding from MARTA for qualifying projects in the TIP is $700,000; and

WHEREAS, the City has identified the projects defined herein ("the Projects") for funding from the City's share of funding in the amount of $700,000; and

WHEREAS, the pre-qualified transportation improvement projects are listed as the: New Peachtree Corridor Pedestrian and Park Avenue Corridor Pedestrian Improvement Projects; and

WHEREAS, the parties desire to define the responsibilities for the design, construction, implementation and payment of costs for the Projects as set forth herein; and

NOW THEREFORE, in consideration of the promises and the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

1. Projects Defined. The Projects are defined as the New Peachtree Corridor Pedestrian Improvement Project and the Park Avenue Corridor Pedestrian Improvement Project (sidewalk improvements, etc.) located at New Peachtree Road and Park Avenue and located in the City, as is more fully shown in the attached Exhibit A (drawing, diagram, etc.).

2. Scope of Work. The New Peachtree Corridor Pedestrian Improvement Project ($350,000) includes the design of ADA ramps, mast arm signs, LED pedestrian countdown timers, textured sidewalks, signage at the intersection of New Peachtree Road and Central Avenue and sidewalk upgrades/ replacement along the half-mile portion of New Peachtree Road adjacent to the Doraville MARTA Station. The Park Avenue Corridor Improvement Project includes the demolition and replacement of existing sidewalk on the south side of Park Avenue ($100,000) in addition to the design ($250,000) of north side sidewalks and aforementioned pedestrian improvements associated with the New Peachtree Road improvements.

3. Duties of City. The City shall be responsible for all work and services required for the successful completion of the Projects, including but not limited to: (a) the design of the Projects; (b) the procurement of goods and services related to the construction of the Projects; (c) the management of the Projects and all contractors performing work thereon; (d) the

inspection and final acceptance of the Projects; and (e) all other acts and obligations consistent with the successful completion of the Projects.

4. Time of Performance. Work and services shall be undertaken and pursued in such sequence as to assure their expeditious completion. All work and services required hereunder shall be completed on or before December 31, 2010. All invoices from the City to be submitted to MARTA hereunder for reimbursement shall be submitted within sixty (60) days of completion of work.

5. Reimbursement. The City shall be reimbursed for the costs of the Projects as set forth in Exhibit B, which is attached hereto and made a part hereof.

6. Formal Communication/Designated Agents. Formal communications regarding this Agreement shall include, but not necessarily be limited to, correspondence, progress reports and fiscal reports. The City or its designee shall furnish progress and fiscal reports to MARTA periodically, as requested by MARTA. All formal communication regarding this Agreement shall be in writing and addressed to the Designated Agents of the parties.

Luke Howe is designated as the authorized agent of the City for purposes of this Agreement only, except for executing amendments hereto. All correspondence shall be directed to him at 3725 Park Avenue, Doraville, Georgia 30340-1111.

Paul Grethner is designated as the authorized agent for MARTA for purposes of this Agreement only, except for executing amendments hereto. All correspondence shall be directed to him at 2424 Piedmont Avenue, N.E., Atlanta, Georgia 30324-3311.

7. Review and Coordination. To ensure adequate assessment of the Projects and proper coordination among the parties, the County shall be kept fully informed of the progress of the work and services to be performed hereunder. The City may be required to meet with designated representatives of the County from time to time, as reasonably requested, to review the work and services performed.

8. Maintenance of Records. The City shall maintain all books, documents, papers, accounting records and other evidence pertaining to the Projects in accordance with generally accepted accounting principles applicable to the City and shall make such material available at all reasonable times during the term of this Agreement for inspection by the County or its external auditors. The City shall include the provisions of this paragraph in any contract in connection with these Projects.

9. Conflict of Interest. No officer, member, or employee of MARTA, and no public official of any local government which is affected in any way by the Projects, who exercises any function or responsibilities in the review of approval of the Projects or any component part thereof, shall participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership or association in which he or she is directly interested; nor shall any such officer, member or employee of MARTA, or public official of any local government affected by the Projects, have a direct interest in this Agreement or the proceeds arising therefrom.

10. Status of Parties as Independent Contractors. Nothing contained in this Agreement shall be construed to constitute the City or any of its employees, servants, agents or subcontractors as a partner, employee, servant or agent of MARTA, nor shall either party to this Agreement have any authority to bind the other in any respect, it being intended that each shall remain an independent contractor.

11. Assignability. Neither party shall assign or transfer all or any portion of its interest in this Agreement without the prior written approval of the other party.

12. Amendments. Either party may request changes in this Agreement. Except for termination for cause by MARTA, such changes, including any increase or decrease in the amount of the City's reimbursement for cost of the Projects, shall be incorporated in written amendments to this Agreement.

13. Termination for Mutual Convenience. Either party may terminate this Agreement in whole or in part when both parties agree that the continuation of the Projects would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall, through formal Agreement amendment, agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The City shall not incur new obligations from the date of termination. MARTA shall allow full credit to the City for non-cancelable obligations, properly incurred by the City prior to termination.

14. Termination of the Agreement for Cause. If through any cause, the City shall fail to fulfill in a timely and proper manner its obligation under this Agreement, or if the City has or shall violate any of the covenants, agreements, representations or stipulations of this Agreement, MARTA shall thereupon have the right to terminate this Agreement by giving written notice to the City of such termination and specifying the effective date thereof, at least ten (10) business days before the effective date of termination. The City shall be entitled to receive just and equitable compensation for costs incurred in the performance of the scope of service up to and including the effective date of termination as authorized in Attachment "B." Notwithstanding the foregoing, to the extent provided by law, the City shall not be relieved of liability to MARTA for damages sustained by MARTA by virtue of any breach of this Agreement by the City, and MARTA may withhold any payments to the City for the purpose of set-off for damages caused by the City's breach, until such time as the exact amount of damages to MARTA from the City is determined.

15. Applicable Law. This Agreement shall be deemed to have been executed and performed in the State of Georgia, and all questions of interpretation and construction shall be construed by the laws of such State.

IN WITNESS WHEREOF, the County and the City have executed this Agreement as of the day first above written.

METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY	**CITY OF DORAVILLE, GEORGIA**
By:_____	By: _____
Burrell Ellis, Chief Executive Officer	Ray Jenkins, Mayor

ATTEST:

_____(SEAL)

APPROVED AS TO FORM:

_____

Miriam D. Lancaster, Chief of Corporate Law
MARTA

ATTEST:

_____(SEAL)
Rhonda Blackmon, City Clerk

APPROVED AS TO FORM:

_____

Murray J. Weed, City Attorney

EXHIBIT A
LCI PRE-QUALIFIED LIST OF TRANSPORTATION PROJECTS

				Cost Estimates (Federal & Match)			
COUNTY	**LCI AREA**	**PROJECT NAME**	**PROJECT DESCRIPTION**	**PE**	**ROW**	**CST**	**TOTAL**
DeKalb	Doraville	New Peachtree Corridor Ped. Improvements	Elements include ADA ramps, mast arm signs, LED pedestrian countdown timers, textured crosswalks, and signage at the intersection of New Peachtree Road with Central Avenue. 10-foot wide sidewalk upgrades and replacement along the half-mile portion of New Peachtree Road adjacent to the MARTA station	$487,000	$270,000	$2,433,000	$3,190,000
DeKalb	Doraville	Park Ave. Corridor Ped. Improvements	Install new/replace sidewalks of both sides of street. Intersection upgrades at both ends of Park Avenue, intersecting with Buford Highway to the east and New Peachtree to the west. Improvements include LED pedestrian countdown timers, textured crosswalks, signage, mast arm signals, and ADA ramps. Includes mid-block pedestrian crossing on Park Avenue at City Hall	$268,000	$130,000	$1,342,000	$1,740,000

EXHIBIT B
COMPENSATION AND METHOD OF PAYMENT

New Peachtree Corridor Pedestrian Improvements Project

I. **Compensation**: The total cost of the Project as described in Exhibit A is $3,190,000. Compensation to the City shall not exceed the actual eligible costs incurred up to the total cost of the Project. In no event will the City's total reimbursement to be paid under this Agreement exceed the sum of $350,000.

A breakdown of the reimbursement is shown in "Exhibit B-1", Project Budget which is attached to and made a part of this Agreement for financial reporting, monitoring and audit purposes. Changes in the Project Budget shall be made in accord with Paragraph 11 in the main body of the Agreement.

II. **Method of Payment**: The method of payment shall be as follows:

A. **Periodic Reimbursement.** The City shall be entitled to receive periodic reimbursement on the following basis. As of the last day of each month during the existence of this Agreement, the City shall submit to MARTA an invoice for reimbursement documenting actual costs incurred during the invoice period. As used herein, actual costs incurred shall include only eligible costs authorized in the Project Budget.

Upon the basis of its audit and review of such invoice, MARTA will, at the request of the City, make payments to the City as the work progresses but not more often than once a month. Invoices shall be numbered consecutively and submitted each month until the Project is completed.

B. **Final Payment.** Final payment shall only be made upon determination by MARTA that all requirements hereunder have been completed, including any audit requirements. Upon such determination and upon submittal of a final invoice, MARTA shall pay the final reimbursement due to the City.

The City's final invoice must be received by MARTA no later than 60 days after the Project completion date specified in Paragraph 3 of the Agreement (or as subsequently amended).

EXHIBIT B-1
PROJECT BUDGET

New Peachtree Corridor Pedestrian Improvements

	Total
Professional Engineering	$ 350,000

EXHIBIT B-2
COMPENSATION AND METHOD OF PAYMENT

Park Avenue Corridor Pedestrian Improvements Project

I. **Compensation**: The total cost of the Project as described in Exhibit A is $1,740,000. Compensation to the City shall not exceed the actual eligible costs incurred up to the total cost of the Project. In no event will the City's total reimbursement to be paid under this Agreement exceed the sum of $350,000.

A breakdown of the reimbursement is shown in "Exhibit B-1", Project Budget which is attached to and made a part of this Agreement for financial reporting, monitoring and audit purposes. Changes in the Project Budget shall be made in accord with Paragraph 11 in the main body of the Agreement.

II. **Method of Payment**: The method of payment shall be as follows:

A. **Periodic Reimbursement.** The City shall be entitled to receive periodic reimbursement on the following basis. As of the last day of each month during the existence of this Agreement, the City shall submit to MARTA an invoice for reimbursement documenting actual costs incurred during the invoice period. As used herein, actual costs incurred shall include only eligible costs authorized in the Project Budget.

Upon the basis of its audit and review of such invoice, MARTA will, at the request of the City, make payments to the City as the work progresses but not more often than once a month. Invoices shall be numbered consecutively and submitted each month until the Project is completed.

B. **Final Payment.** Final payment shall only be made upon determination by the Authority that all requirements hereunder have been completed, including any audit requirements. Upon such determination and upon submittal of a final invoice, MARTA shall pay the final reimbursement due to the City.

The City's final invoice must be received by MARTA no later than 60 days after the Project completion date specified in Paragraph 3 of the Agreement (or as subsequently amended).

EXHIBIT B-3
PROJECT BUDGET

Park Avenue Corridor Pedestrian Improvements Project

Professional Engineering		$ 250,000
Sidewalk Demolition and Replacement		$ 100,000
	TOTAL	$ 350,000