

**Voluntary Resolution Agreement Between the Federal Highway Administration and the
Alabama Department of Transportation**

DOT # 2022-0120

DOT # 2023-0017

I. Purpose

The Federal Highway Administration (“FHWA”) and the Alabama Department of Transportation (“ALDOT”) hereby enter into this Voluntary Resolution Agreement (“Agreement”) regarding the properties located near the intersection of US Highway 84 (“US-84”) and County Road 502 (“CR-502”) near Elba, Alabama 36323 (identified in the attached ROW map attached as Exhibit A and referred to herein as the “Shiloh community”), to resolve allegations against ALDOT of noncompliance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d-7 (“Title VI”). This agreement sets forth specific actions that ALDOT will take to resolve the Title VI allegations.

II. Background

- A. ALDOT contracted with an outside designer engineering firm and an outside construction contractor for the design and construction of the US-84 modifications in Coffee County, ALDOT project RPF-NHF-0012(507) (“Project”).
- B. ALDOT began construction of the Project along US-84 near Elba in 2017 and completed construction in 2019. The Project involved adding two eastbound lanes to the existing two-lane highway to construct a four-lane divided highway.
- C. The Project design provided for multiple drainage structures including Detention Basin 6 adjacent to CR-502, intended to accommodate the increases in stormwater runoff associated with the Project.
- D. During construction of the Project, ALDOT received feedback from some members of the Shiloh community regarding concerns about increases in stormwater runoff coming from US-84. ALDOT responded by making changes during construction.
- E. Following a rain event in 2019, members of the Shiloh community submitted complaints to ALDOT regarding stormwater on their properties. The community members, represented by counsel, resolved the matter with ALDOT through Alabama’s Board of Adjustments claims process. ALDOT and the complainants executed agreements to settle the claims in 2020.
- F. On January 10, 2021, FHWA received a complaint from a Shiloh community member regarding his property located in the Shiloh community. The complaint alleges that ALDOT’s construction activities have caused water to rush onto his property, causing damage to his home and causing his home to sink. The complaint alleges that his property did not have these problems before the highway construction.
- G. On August 9, 2022, FHWA received a complaint from a Shiloh community member

regarding his property and other properties located in the Shiloh community. The complaint alleges that ALDOT forced water onto his property from US-84, causing flooding on his property, and damage to his home and other homes. The complaint alleges that the situation is only in the African American community in Shiloh.

- H. On October 3, 2022, FHWA received a complaint from a Shiloh community member regarding her property and other properties located in the Shiloh community. The complaint alleges that the US-84 construction has resulted in an ongoing overflow of water into her yard and resulted in her home being flooded several times. The complaint alleges that her residence and another Shiloh community member's residence are sinking. The complainant noted that Shiloh is an African American community that should be treated as well as others who have had the same issues.
- I. FHWA conducted a preliminary review for jurisdiction of the complaints, including interviews with the complainants and document review, and accepted the complaints for investigation in September 2022.
- J. FHWA's investigation focused on the complainants' allegations regarding stormwater runoff and flooding for the entire Shiloh community. FHWA sent ALDOT a Request for Information ("RFI") on December 9, 2022, and ALDOT responded timely with Project documents on January 20, 2023. FHWA conducted a site visit in March 2023, and the site visit team interviewed residents and documented the site features. In spring 2023, FHWA conducted interviews with ALDOT staff and requested additional information from ALDOT and the complainants. Throughout the investigation, FHWA frequently received information and updates from the complainants.
- K. In Fall 2023, FHWA and ALDOT engaged in informal negotiations to voluntarily resolve the matters in the complaints, pursuant to 49 C.F.R. § 21.11(d)(1).

III. Title VI Jurisdiction

Title VI provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. 42 U.S.C. 2000d. ALDOT is a recipient of continuing Federal financial assistance from the FHWA. Accordingly, FHWA has jurisdiction over the complaints against ALDOT under Title VI and DOT's Title VI regulations at 49 C.F.R. Part 21.

IV. General Terms

- A. This Agreement, and all provisions and Exhibits herein, are between ALDOT and FHWA as the sole parties to the Agreement. This Agreement will be applicable to, and binding upon, the parties to this Agreement, their officers, agents, employees, assignees, and successors in office. The FHWA Alabama Division Office ("Division Office") will be delegated responsibility for leading the oversight and implementation of this Agreement.

- B. The provisions, Attachments, and Exhibits herein constitute the entire Agreement.
- C. "Days" shall mean calendar days.
- D. If any part of the Agreement is deemed invalid, all other provisions remain valid.
- E. The signatories represent that they are authorized to bind ALDOT and FHWA.
- F. This Agreement resolves this Title VI investigation and is limited to the facts and issues presented in the complaints identified during this investigation. This Agreement does not affect ALDOT's continuing obligation to comply with Title VI, and all other federal laws and applicable regulations, or preclude FHWA from taking appropriate action to evaluate ALDOT's compliance with any laws enforced by FHWA.
- G. Neither ALDOT nor any entity or business party to an agreement to carry out the actions herein shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Section 601 of Title VI or 49 C.F.R. Part 21, or because they have made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing pursuant to Title VI. 49 C.F.R. § 21.11(e).
- H. The term of this Agreement will commence on the date the Agreement is signed by FHWA and ALDOT and will terminate after the date FHWA approves the final voucher for payment by ALDOT to its contractor for constructing the improvements described in this Agreement. Should the improvements be suspended due to funding or legal action, the actions required in this Agreement are suspended during the time of the suspension.
- I. This Agreement may be modified by mutual agreement of both FHWA and ALDOT after negotiating in good faith and in writing.
- J. If ALDOT is unable to comply with the initial timelines in this Agreement, then ALDOT may send FHWA a written extension request detailing the reasons for the request and the new dates requested. The new dates will become effective once FHWA responds in writing to ALDOT accepting the requested terms. FHWA may propose a counterproposal to the terms proposed by ALDOT. If ALDOT and FHWA are unable to reach an agreement regarding an extension request, then FHWA may continue conducting a formal investigation into the complaints as discussed in Section IX of this Agreement.
- K. ALDOT disputes that a Title VI violation has occurred. In entering into this Agreement, FHWA is not making a noncompliance finding against ALDOT, and ALDOT is not admitting a violation of Title VI. ALDOT has agreed to implement the actions described in this Agreement voluntarily.

V. ALDOT Actions

As a primary recipient of Federal-Aid Highway funding from FHWA, ALDOT is responsible

for implementing FHWA Title VI Program requirements. See 23 C.F.R. § 200.3. ALDOT is solely responsible for effectuating the actions described in this Agreement by taking the following actions:

- A. ALDOT will make improvements to the existing drainage conditions by implementing one of the two improvement plans as approved by FHWA and further described in Attachments 1 and 2 in order of preference (with the selected improvement plan being recognized herein as the “Voluntary Action Plan”). The Voluntary Action Plan will begin with ALDOT working toward the improvements described in Attachment 1 as the preferred solution. If ALDOT is unable to implement Attachment 1 within the set timelines, then ALDOT shall send a written request to the Division Office with details as to why ALDOT recommends proceeding to implement Attachment 2. If FHWA concurs with ALDOT’s request, then the Division Office shall send a written approval to ALDOT, and ALDOT shall proceed to implement the improvements described in Attachment 2 within the timeframe prescribed therein.
- B. Oversight and approval authority over the Voluntary Action Plan will be delegated to the Division Office.
- C. Beginning 180 days after signing the Agreement and every 180 days thereafter, ALDOT will submit a Progress Report to the Division Office detailing the implementation of ALDOT-required actions under Article V of this Agreement. ALDOT and the Division Office, in coordination with the FHWA Headquarters Office of Civil Rights, will agree on the Progress Report format prior to submission of ALDOT’s first required report. FHWA will review and provide timely comments on each progress report to ALDOT. Further, ALDOT will cooperate with the Division Office regarding any requests for documentation of such progress.
- D. ALDOT will work with FHWA to ensure that the affected property owners are informed of relevant information about ALDOT’s progress in carrying out this Agreement. ALDOT will ensure that any written materials disseminated to the general public are written in plain language and accessible to persons with communication disabilities and individuals with limited English proficiency. In addition, ALDOT will follow its Public Involvement Plan as approved by FHWA.

VI. Federal Reimbursement

The actions in this Agreement will be funded through the provisions of the Federal-aid Highway Program. ALDOT may apply for federal reimbursement for any eligible expenses incurred as part of the Voluntary Action Plan described in this Agreement.

VII. Agency Cooperation

ALDOT and FHWA are committed to working with each other to identify and facilitate discussions between their federal and state sister agencies in order to provide further assistance to the Shiloh community with respect to concerns about their septic systems.

VIII. Third-Party Agreement

FHWA acknowledges that ALDOT may enter into separate agreement(s) with a third party for purposes of implementing this Agreement, and that such third parties under separate agreement will carry out some or all actions identified in this Agreement. No provisions in such separate agreement will (1) affect ALDOT's obligations to FHWA, generally, or (2) supersede any provision described herein to the extent ALDOT's third party agreement conflicts with any provision contained herein or Federal law or regulation.

IX. Noncompliance

FHWA may review ALDOT's compliance with this Agreement at any time. If FHWA believes ALDOT has failed to comply in a timely manner with any requirement of this Agreement, FHWA will so notify ALDOT in writing and will attempt to resolve the issue or issues in good faith.

X. Abeyance

The FHWA will hold in abeyance any further investigation regarding the complaints described above during the performance of this Agreement. At any time, should ALDOT notify FHWA of its intent to not perform, or ensure performance, under this Agreement, FHWA will notify ALDOT as stated in section IX above. Should ALDOT and FHWA fail to resolve the issue or issues within 60 days of notification, FHWA may continue conducting a formal investigation regarding the complaints and take such other actions as necessary to ensure ALDOT's compliance with Title VI.

XI. Enforcement


It is the intent of the parties to implement the provisions of this Agreement according to the timelines in this Agreement. If ALDOT, solely through its actions or inaction, fails to implement any part of this Agreement (except where agreed upon between the parties) or fails to cooperate with FHWA documentation and information requests, FHWA may invoke its authority pursuant to 49 C.F.R. § 21.13, et seq., for failure or threatened failure to comply with Title VI of the Civil Rights Act of 1964. If at any time FHWA makes such a determination, then FHWA shall notify ALDOT in writing. The notice shall include a statement of the basis for FHWA's determination and shall allow ALDOT thirty (30) days to either; (a) explain in writing the reason for the actions and describe the remedial actions that have been or shall be taken to achieve compliance with this Agreement or (b) dispute the accuracy of FHWA's findings. If ALDOT does not respond to the notice, or if, upon review of ALDOT's response, FHWA determines that ALDOT has not complied with the terms of the Agreement, FHWA may pursue remedies authorized by law. 49 C.F.R. § 21.13(a); 28 C.F.R. § 42.413(c).

XII. Final Resolution

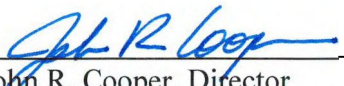
The terms and actions detailed in this Agreement represent the full and final resolution of the complaints and investigation described in Section II. Upon completion of the Voluntary

Action Plan by ALDOT and approval by the Division Office, FHWA will close its investigative file and consider the complaints fully resolved.

The parties to this Agreement hereby accept and agree to the above-stated terms as indicated by the signatures of the authorized representatives of each party below.

Irene Rico  Digitally signed by Irene Rico
Date: 2024.10.03 17:53:17
-04'00'

Irene Rico, Associate Administrator
Office of Civil Rights
Federal Highway Administration



John R. Cooper, Director
Alabama Department of Transportation

Exhibit A

Right-of-Way Map of "Shiloh community"



Attachment 1

ALDOT will accomplish the Voluntary Action Plan by doing the following:

- A. ALDOT agrees to purchase additional right-of-way from property owners within the Shiloh community who voluntarily sell the additional right-of-way needed for relocating the discharge point as depicted in the attached drawing and constructing a drainage ditch from the discharge point to the natural outfall point south of the Shiloh community.
- B. ALDOT, with assistance from FHWA, will negotiate with the property owner(s) from whom additional right-of-way is needed in order to construct the above-described drainage structure. Such purchase will only be made where the property owner(s) voluntarily agree(s) to sell their property to ALDOT at a reasonable price for the property in order to construct the proposed improvements.
- C. ALDOT agrees to follow its FHWA-approved Right-of-Way Manual procedures for granting relocation assistance to any eligible property owner(s) who voluntarily sell(s) their property to ALDOT for the above-described improvements.
- D. ALDOT will regrade Detention Basin 6 to increase the pond capacity, raise the top of the existing berm around the basin, install a secondary berm to reduce the risk of overtopping the south side of the basin towards adjacent properties, and install an emergency spillway to direct water into the roadside ditches within ALDOT's existing right-of-way.
- E. ALDOT will regrade the roadside ditches and raise the berm elevations of the roadside ditches along the right-of-way line near the properties.
- F. ALDOT will widen the ditch bottoms in the area south of US-84 and east of CR-502 to increase storage, as well as regrade CR-502 roadside ditches to the tie point with the existing ditches in the County right-of-way to reduce the risk of overtopping CR-502.
- G. The timeline for implementation of the above-described improvements is as follows:
 - 1. ALDOT will work with FHWA and the property owner(s) to reach an agreed upon price for ALDOT's voluntary purchase of the needed right-of-way within six (6) months from the Date that FHWA meets with the complainants to discuss the approved Voluntary Resolution Agreement, unless otherwise agreed to by the Parties.
 - 2. ALDOT will work with FHWA to obtain all required design and environmental permit approvals within six (6) months of closing or clearing title to the last property needed to implement the above-described improvements.
 - 3. ALDOT plans to solicit qualified contractors to perform the above-described improvements within three (3) months of receiving all required design and environmental approvals.
 - 4. ALDOT estimates the time for completion of the Voluntary Action Plan is six (6) months from

the selection of a qualified contractor by ALDOT to construct the improvements.

5. ALDOT will implement these timelines concurrently to the greatest extent feasible.

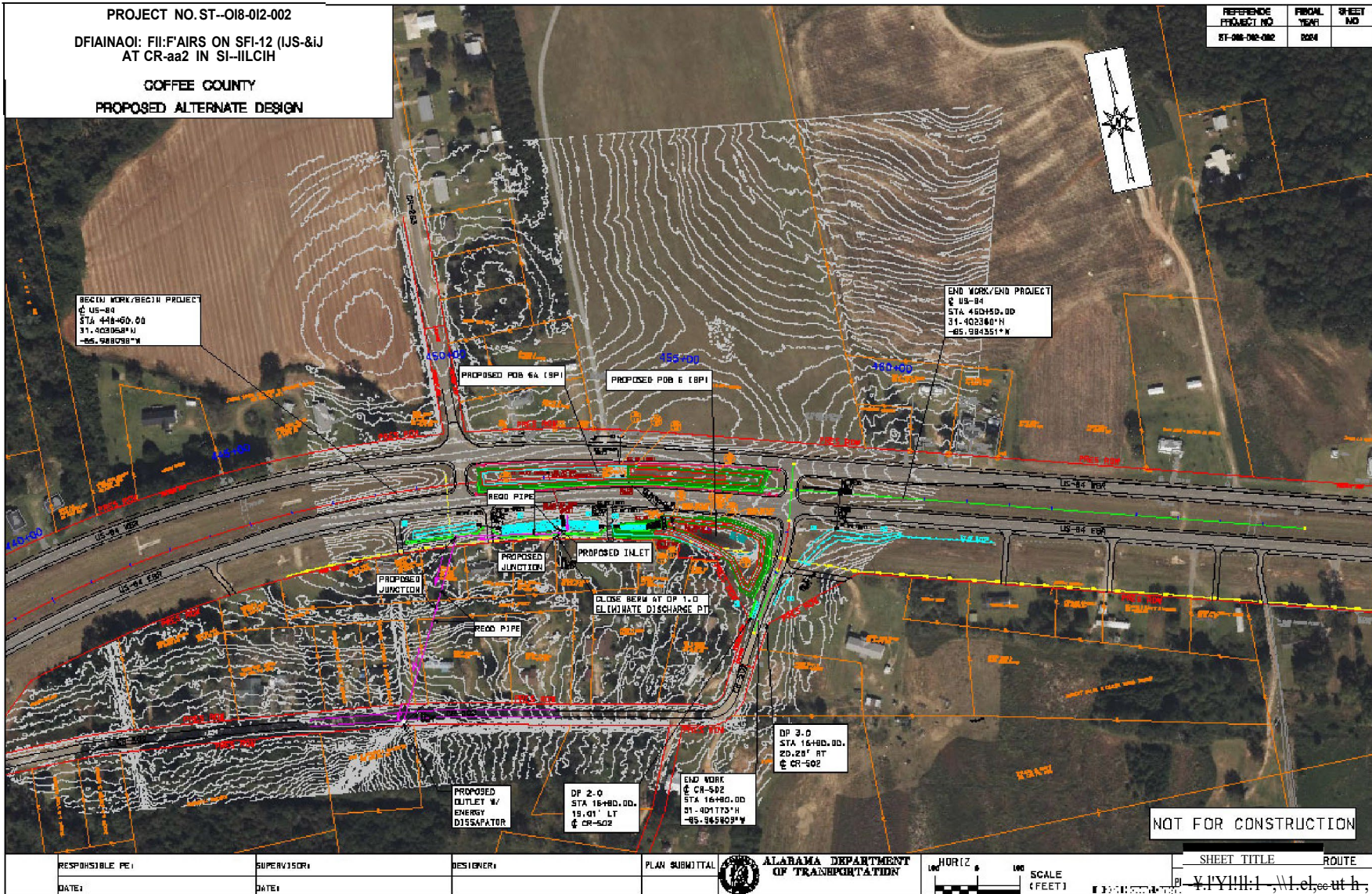
H. If it becomes apparent that any property owner(s) approached by ALDOT is/are unwilling to voluntarily sell the property needed for the above-described improvements, or if ALDOT has been unable to reach an agreed upon price for ALDOT's voluntary purchase of the needed right-of-way within six (6) months from the Date that FHWA meets with the complainants to discuss the approved Voluntary Resolution Agreement, unless otherwise agreed to by the Parties, ALDOT will inform FHWA of the status of its efforts and proceed in accordance with the process outlined in Section V. A. of the Agreement.

PROJECT NO. ST--018-012-002

DFI/NAOI: FII:FAIRS ON SFI-12 (IJS-&IJ
AT CR-aa2 IN SI-IILCIH

COFFEE COUNTY
PROPOSED ALTERNATE DESIGN

REFERENCE PROJECT NO.	FISCAL YEAR	SHEET NO.
ST-018-012-002	2024	



RESPONSIBLE PE: _____
DATE: _____

SUPERVISOR: _____
DATE: _____

DESIGNER: _____

PLAN SUBMITTAL _____



HORIZ SCALE (FEET)

SHEET TITLE _____ ROUTE _____

Attachment 2

ALDOT will accomplish the Voluntary Action Plan by doing the following:

- A. ALDOT will add a detention basin in the median upstream of Detention Basin 6 with two riser structures to further reduce the flow of water across the median and roadway leaving right-of-way while providing adequate controls to avoid roadway flooding.
- B. ALDOT will regrade Detention Basin 6 to increase the pond capacity, raise the top of the existing berm around the basin, install a secondary berm to reduce the risk of overtopping the south side of the basin towards adjacent properties, and install an emergency spillway to direct water into the roadside ditches within ALDOT's existing right-of-way.
- C. ALDOT will regrade the roadside ditches and raise the berm elevations of the roadside ditches along the right-of-way line near the properties.
- D. ALDOT will widen the ditch bottoms in the area south of US-84 and east of CR-502 to increase storage, as well as regrade CR-502 roadside ditches to the tie point with the existing ditches in the County right-of-way to reduce the risk of overtopping CR-502.
- E. ALDOT agrees to solicit qualified contractors to perform the above-described improvements within six (6) months of selection of Attachment 2 as the Voluntary Action Plan.
- F. The estimated time for completion of the Voluntary Action Plan is six (6) months from the selection of a qualified contractor by ALDOT to construct the improvements.