

Assistance Agreement

Principal Text.

USAID Assistance Agreement No. AAG - 114 - G - 10 - 002

ASSISTANCE AGREEMENT

BETWEEN

GEORGIA

AND

THE UNITED STATES OF AMERICA

FOR

IMPROVED INFRASTRUCTURE, ECONOMIC OPPORTUNITIES, AND SUPPORT FOR
INTERNALLY DISPLACED PERSONS

August 12, 2010

Fiscal Data:

Budget Plan Code: EC-SUP/2009/2010, NI-1207-X-2010, NI-X-2010

Objective: Economic Growth and Humanitarian Assistance

Program Area/Element: A16, A18, A19, A20, A22

Amount Obligated: \$77,069,599

Agreement Number: AAG - 114 - G - 10 - 002

Handwritten signature and date: 8/12/10

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ASSISTANCE AGREEMENT

Dated: August 12, 2010

Between

GEORGIA, acting through the Ministry of Finance (hereinafter referred to as the "Grantee")

and

The United States of America, acting through the United States Agency for International Development ("USAID")

Article 1: Purpose.

The purpose of this Assistance Agreement (the "Agreement") is to set out the understanding of the parties named above (the "Parties") in connection with the Objective described below.

Article 2: Functional Objective, Program Areas and Program Elements.

Section 2.1. Functional Objective, Program Areas. In order to further the foreign assistance objectives of *Economic Growth and Humanitarian Assistance* (the "Functional Objectives") articulated by the Government of the United States of America under the Strategic Framework for United States Foreign Assistance, the Parties hereto agree to work together by focusing on activities in the areas of *Improved Economic Infrastructure in Strategic Sectors* and *Protection, Assistance and Solutions* (collectively, the "Program Areas," and, together with the Functional Objective, the "Objective").

Section 2.2. Program Elements. In order to achieve the Objective, the Parties agree to work together to achieve the following: 1. Improve Municipal Infrastructure, 2. Municipal Development and Economic Opportunities, and 3. Crisis Assistance and Recovery (IDP Housing). These Elements, and the Indicators by which progress toward and achievement of the Program Elements will be measured, are further described in Annex 1. Within the limits of the definition of the Functional Objective in Section 2.1, this Section 2.2 may be changed by written agreement of the authorized representatives of the Parties without formal amendment of this Agreement.

Section 2.3. Annex 1, Amplified Description. Annex 1, attached, amplifies the above Objective and describes the Program Elements, Program Sub-Elements and Indicators that will be used to measure the progress and achievement in each of the Program Areas. Within the limits of the definition of the Functional Objective set forth in Section 2.1, Annex 1 may be changed by written agreement of the authorized representatives of the Parties without formal amendment of this Agreement.

Article 3: Contributions of the Parties.

Section 3.1. USAID Contribution.

(a) The Grant. To help achieve the Objective set forth in this Agreement, USAID, pursuant to the Foreign Assistance Act of 1961, as amended, hereby grants to the Grantee under the terms of the Agreement an amount not to exceed seventy-seven million, sixty nine thousand, five-hundred ninety-nine United States ("U.S.") Dollars (\$77,069,599) (the "Grant").

(b) Total Estimated USAID Contribution. USAID's total estimated contribution to achievement of the Objective will be eighty-three million, sixty nine thousand, five-hundred ninety-nine U.S. Dollars (\$83,069,599) which will be provided in increments. Subsequent increments will be subject to the availability of funds to USAID for this purpose and may be provided by USAID upon written notice to the Grantee. The Parties agree that each such incremental contribution provided, if any, shall cumulatively increase the total amount of the Grant set forth in Section 3.1 and consequently may increase the Grantee's contribution under Section 3.2. Any such increase in the Grantee's contribution shall be subject to formal Amendment in accordance with Section 7.4.

(c) If at any time USAID determines that its contribution under Section 3.1(a) exceeds the amount which reasonably can be committed for achieving the Objective during the current or next U.S. fiscal year, USAID may, upon written notice to the Grantee, withdraw the excess amount, thereby reducing the amount of the Grant as set forth in Section 3.1(a). Actions taken pursuant to this subsection will not revise USAID's total estimated contribution set forth in 3.1(b).

Section 3.2. Grantee Contribution.

(a) The Grantee agrees to provide or cause to be provided all funds, in addition to those provided by USAID as detailed in Annex 1, and all other resources required to complete, on or before the Completion Date, all activities necessary to achieve the Objective.

(b) The Grantee's contribution, based on USAID's contribution in Section 3.1(a), will not be less than the equivalent of U.S. \$24,376,437, including in-kind contributions to the objectives of this Agreement. If USAID increases or decreases the amount of the Grant in Section 3.1(a) incrementally, as contemplated herein, the Grantee's contribution shall increase or decrease with each increment accordingly, such that the Grantee's contribution will not be less than the equivalent of one-third of that portion of the Grant that is used to support activities that either directly provides substantial benefit to the Government of Georgia or involves the direct and substantial involvement of the Government of Georgia in the administration, control or management of such assistance. The precise amount of Grantee contribution shall be indicated in USAID's written notice of each incremental contribution. The Grantee's total estimated planned contribution to the Objective will be subject to availability of funds to the Grantee for this purpose and to USAID providing the total estimated amount in Section 3.1(b).

Article 4: Completion Date.

(a) The Completion Date, which is December 31, 2014, or such other date as the Parties may agree to in writing, is the date by which the Parties estimate that all the activities necessary to achieve the Objective will be completed.

(b) Except as USAID may otherwise agree to in writing, USAID will not issue or approve documentation that would authorize disbursement of the Grant for services performed or goods furnished after the Completion Date.

(c) Requests for disbursement, accompanied by necessary supporting documentation prescribed in Implementation Letters, are to be received by USAID no later than nine (9) months following the Completion Date, or such other period as USAID agrees to in writing before or after such period. After such period USAID, at any time or times, may give notice in writing to the Grantee and reduce the amount of the Grant by all or any part thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Implementation Letters, were not received before the expiration of such period.

Article 5: Conditions Precedent to Disbursement.

Section 5.1. **First Disbursement.** Prior to the first disbursement under the Grant, or to the issuance by USAID of documentation pursuant to which disbursement will be made, the Grantee will, except as the Parties may otherwise agree in writing, furnish to USAID in form and substance satisfactory to USAID:

(a) An opinion of the Ministry of Justice acceptable to USAID that (i) this Agreement has been duly authorized or ratified by, and executed on behalf of the Grantee, (ii) this Agreement constitutes a valid and legally binding obligation of the Grantee in accordance with all of its terms, and (iii) all internal actions and approvals necessary to give effect to this Agreement have been obtained by or on behalf of the Grantee; and

(b) A signed statement in the name of the person holding or acting in the office of the Grantee specified in Section 7.2, which designates by name and title any additional representatives each of whom may act pursuant to Section 7.2.

Section 5.2. **Additional Disbursement.** Prior to additional disbursement under the Grant towards municipal infrastructure, municipal development and economic opportunities, or IDP housing, or to the issuance by USAID of documentation pursuant to which additional disbursement will be made, the following conditions must be met:

(a) Prior to disbursement in support of a specific project, each project must receive USAID approval that it meets USAID development objectives and was selected utilizing a process that informed and incorporated opinions from affected regions, municipalities, and communities.

(b) Prior to disbursement to pay a specific contract or grant under this Agreement, the Grantee must receive USAID concurrence that to the best of USAID's knowledge, the relevant procurement was carried out in a transparent and open manner, contained all elements required by USAID, and represent a fair value for services and material rendered.

(c) Prior to any disbursement to pay a specific project that would cause USAID's aggregate disbursement for the project to exceed 90 percent of USAID's cost share, USAID and the Grantee shall conduct a final inspection and complete a written certification that all work has been completed in accordance with the contract.

Section 5.3. Notification. USAID will promptly notify the Grantee when USAID has determined that a condition precedent has been met.

Section 5.4. Terminal Dates for Conditions Precedent. The terminal date for meeting the conditions specified in Section 5.1 is 90 days from the date of this Agreement or such later date as USAID may agree to in writing before or after the above terminal date. If the conditions precedent in Section 5.1 have not been met by the above terminal date, USAID, at any time, may terminate this Agreement by written notice to the Grantee.

Article 6: Special Covenants.

(a) The Grantee, in conjunction with the appropriate Government of Georgia Ministries and offices, hereby covenants and agrees to issue, renew and/or extend free of charge and in a timely manner all official permits, visas, exemptions and any other permissions (including all approvals as may be required from time to time to ensure full access to information, project sites and relevant offices) for the Applicable Persons (as defined below) carrying out activities financed by USAID under this Agreement (collectively, the "Required Documents"). For purposes of this provisions, Applicable Persons is defined as: (1) employees and consultants of any contractors, grantees and other organizations carrying out activities financed by USAID under this Agreement and (b) members of such employees' and consultants' households. Any renewals or extensions of such Required Documents that are required, or become required, in order for such employees, consultants and dependent family members to legally reside in Georgia and undertake the activities contemplated by and financed under this Agreement shall also be issued free of charge.

(b) Subcommitting, subobligating and disbursing funds. With respect to disbursements made under this Agreement, the Grantee agrees that after satisfaction of the Conditions Precedent set forth in Section 5.1, USAID may subcommit, subobligate and disburse Grant funds available under Section 3.1(a) through such contracts and grants with entities selected by USAID, so long as such actions and disbursements are consistent with the terms and conditions of Annex 1 (Amplified Description) hereof without any further approval or concurrence.

(c) USAID shall periodically inform the Grantee of all disbursements directly made by USAID under this Agreement, providing the Grantee with the amount(s) and purpose(s) of such disbursement(s). Prior approval of the Grantee, however, shall be required, for all disbursements of Grant funds made directly to the Grantee.

(d) The Parties agree that USAID shall participate in the Municipal Development Fund (MDF) "Supervisory Board" for IDP Housing and Municipal Infrastructure activities funded under this Agreement to the extent such activities are implemented by the MDF. For those activities not implemented by MDF, the Parties agree to form a 'Steering Committee' which may include representation from the U.S. Embassy, USAID, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees (MIDPOTAR) and the Ministry of Regional Development and Infrastructure (MRDI) to jointly coordinate and monitor activities under this Agreement.

Article 7: Miscellaneous.

Section 7.1. Communications. Any notice, request, document, or other communication submitted by either Party to the other under this Agreement will be in writing or by telegram,

telefax, cable or electronic mail ("e-mail"), and will be deemed duly given or sent when delivered to such Party at the following address:

To USAID/Georgia: Mission Director
 Mail Address: United States Embassy Georgia
 11 George Balanchine Street
 Tbilisi 0131 Georgia
 Telefax: (995 32) 544 145

To the Grantee (Amendments): Minister of Finance
 Mail Address: 16 Gorgasali Street
 Tbilisi, Georgia
 Telefax: (995 32) 261 444

To the Grantee: Minister of Regional Development and Infrastructure
 Mail Address: 12 Kazbegi Ave.,
 Tbilisi, Georgia
 Telefax: (995 32) 510 757

All such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

Section 7.2. **Representatives.** For all formal Amendments to this Agreement, the Grantee shall be represented by the individual holding or acting as Minister of Finance of Georgia and USAID will be represented by the individual holding or acting as Mission Director. For all other purposes relevant to this Agreement, the Grantee will be represented by the individual holding or acting as the Minister of Regional Development and Infrastructure, and USAID will be represented by the individual holding or acting as Mission Director. Each Representative, by written notice, may designate additional representatives for all purposes other than signing formal amendments to the Agreement or exercising the power under Sections 2.2 or 2.3 to revise the Program Elements, Indicators or Annex 1. The names and titles of the additional representatives of the Grantee with specimen signatures, will be provided pursuant to Section 5.1(b) to USAID, which may accept as duly authorized any instrument signed by such additional representatives (or any individuals subsequent holding or acting in the office of such representatives) in accordance with this Section 7.2, until receipt of written notice of revocation of their authority.

Section 7.3. **Standard Provisions Annex.** A "Standard Provisions Annex" (Annex 2) is attached to and forms part of this Agreement.

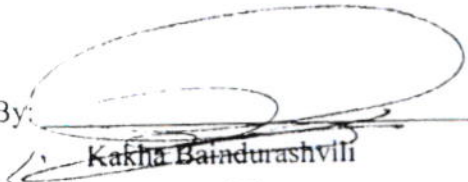
Section 7.4. **Amendment.** Formal Amendments to this Agreement may be agreed upon by the execution and entry into force of written Amendments by the Parties, and such Amendments shall constitute an integral part of this Agreement.

Section 7.5. **Entry Into Force.** This Agreement shall enter into force on the date of receipt by the United States, represented by USAID, of Georgia's notification of its consent to be bound as required by Article 5.1(a).

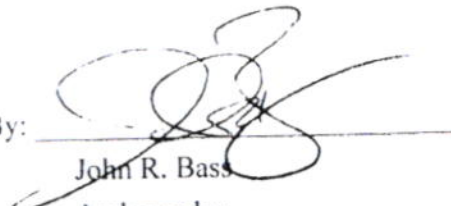
Section 7.6. **Language of Agreement.** This Agreement is prepared in English in two copies.

IN WITNESS WHEREOF, the United States of America and the Grantee, each acting through its duly authorized representatives, have caused this Agreement to be signed in their names as of the day and year first above written.

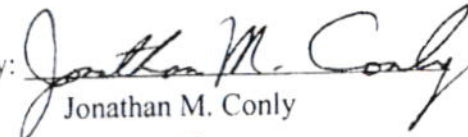
GEORGIA:

By: 
Kakha Baidurashvili
Minister of Finance

UNITED STATES OF AMERICA:

By: 
John R. Bass
Ambassador

UNITED STATES AGENCY for
INTERNATIONAL DEVELOPMENT:

By: 
Jonathan M. Conly
Mission Director

**Annex I to Assistance Agreement
Amplified Description**

I. Introduction.

This annex describes the activities to be undertaken and the progress and achievements to be made with the funds obligated under this Agreement. Nothing in this Annex I shall be construed as amending any of the definitions or terms of the Agreement.

II. Background.

The dual shocks of the August 2008 war between Russia and Georgia and global economic downturn pose serious challenges to Georgia's economic stability, which in turn adds to pressures on Georgia's political stability. The conflict, crisis, and subsequent slowdown in economic growth and foreign direct investment have placed a strain on Georgia's national budget and ability to finance core investments in critical regional development initiatives.

Many years of decline in the quality, coverage and maintenance of basic services (e.g., water and sewage systems, local roads, and irrigation systems) have reduced Georgia's rural quality of life and constrained private sector growth. In many instances, tariffs do not yet cover direct operation and maintenance costs or depreciation costs, and poor quality infrastructure undermines a willingness to pay for such services. Georgia's challenges are further compounded by the need to provide assistance to internally displaced people (IDP) located throughout the country, with many IDP families in need of durable housing.

The Parties therefore seek to promote *Economic Growth and Humanitarian Assistance for Vulnerable Populations*, including by providing support to address Georgia's IDP housing, municipal development and economic opportunities, and municipal infrastructure priorities.

III. Funding.

Financial Plan. The financial plan for the Program is set forth in the attached table. Changes may be made to the financial plan by authorized representatives of the Parties without formal amendment to the Agreement, if such changes do not cause (1) USAID's contribution to exceed the amount specified in Section 3.1 of the Agreement, or (2) the Grantee's contribution to be less than the amount specified in Section 3.2 of the Agreement.

IV. Results Framework.

It is anticipated that efforts carried out in support of the mutual shared objectives of *Economic Growth and Humanitarian Assistance for Vulnerable Populations* shall focus on three sectors: Municipal Infrastructure, Municipal Development and Economic Opportunities, and IDP Housing. Activities shall seek to achieve Intermediate Results (IRs) and be measured by corresponding Indicators as set forth below.

A. Municipal Infrastructure (Economic Growth Objective)

Intermediate Result 1: Improved Infrastructure in Strategic Sectors

- Indicator: Value of economic impact of completed projects, where appropriate.

Intermediate Result 2: Improved Infrastructure

- Indicator: Amount of USAID assistance
- Indicator: Percentage of leveraged amount for infrastructure projects where appropriate
- Indicator: Number and value of USAID funded municipal infrastructure projects (disaggregated by type; e.g. water, road, irrigation, etc)
- Indicator: Number of rural households benefiting directly from USG interventions (Agriculture and Non-Agriculture)
- Indicator: Number of municipalities benefiting from the assistance
- Indicator: Number of mechanisms supported with USG assistance for citizens to engage government
- Indicator: Number of additional and improved hectares irrigated as a result of USG assistance

B. Municipal Development and Economic Opportunities (Economic Growth Objective)

Intermediate Result 1: Improved Economic Security for Targeted Vulnerable Populations and Sectors

- Indicator: Number of rural households benefiting directly from USG interventions - This will include number of households who will benefit from community development projects and/or receive technical assistance, grants, agricultural inputs and other assistance contributing to their living standard improvement.

Intermediate Result 2: Established Municipal Development Model

- Indicator: Municipal Development Plans Adopted

Intermediate Result 3: Implementation of Municipal Development Plans

- Indicator: Number of development plans adopted/updated
- Indicator: Dollar value leveraged from government, private sector and/or other donor programs for infrastructure rehabilitation
- Indicator: Economic impact of infrastructure development projects
- Indicator: Number of small-scale infrastructure projects implemented
- Indicator: Increased agricultural production and productivity
- Indicator: Diversified sources of income for households
- Indicator: Number of households classified as poor or vulnerable assisted to improve income or food security.
- Indicator: Number of youth receiving training to build employment or income generation skills

- Indicator: Improved Access to finance by targeted population and sectors
- Indicator: Value of the special funds/loans issued this year to target groups
- Indicator: Value of grants provided to target groups

C. IDP Housing (Humanitarian Assistance Objective)

Intermediate Result 1: Assistance and Recovery (Program Element)

- Indicator: Number of targeted IDP family dwellings rehabilitated according to MIDPOTAR standards
- Indicator: Number of IDP family dwellings with upgraded standardized living facilities
- Indicator: Number of rehabilitated buildings and settlements that have established a long-term approach (e.g., homeowner's associations) for the management and maintenance of their residences and that exist after one year

Intermediate Result 2: Improved Community Infrastructure

- Indicator: Value of USG assistance
- Indicator: Percentage of leveraged amount for community development
- Indicator: Number of municipalities benefiting from the assistance

Intermediate Result 3: Improved Economic Security for Targeted Vulnerable Populations and Sectors

- Indicator: Number of rural households benefitting directly from USG interventions

Intermediate Result 4: Provision of Key Social, Health Services Expanded to Meet Needs of Vulnerable Groups

- Indicator: Number of people in target areas with access to improved sanitation facilities as a result of USG assistance.
- Indicator: Number of people with access to improved drinking water.

V. Activities/Activity Selection.

A. Municipal Infrastructure (Economic Growth Objective)

Implementation of municipal infrastructure development projects. Those projects will focus on rehabilitating municipal infrastructure in at least 5 municipalities impacted by the 2008 conflict with Russia. Those municipalities will be selected in consultation with MRDI, and project selection criteria also will be developed jointly by USAID/Georgia and MRDI.

It is expected that selected projects will address economic and social development in rural areas and be related to the development or repair of critical infrastructure, including but not limited to water, roads and irrigation. Proposed infrastructure rehabilitation activities will include evidence of civic participation in selection and monitoring of projects through transparent and inclusive practices and will benefit (directly and indirectly) significant portion of population in the targeted municipalities.

Rehabilitation of irrigation systems. This component will focus on rehabilitation of at least one irrigation system (primary and possibly secondary irrigation channels) to promote agricultural development. Because of the size and scope of these rehabilitation efforts, selection will be conducted jointly between USAID/Georgia, MRDI and the Ministry of Agriculture.

It is expected that selected systems will contribute to improved livelihoods through new or greatly enhanced agriculture productive capacity and will focus on rural populations, IDPs or persons affected by the 2008 conflict with Russia.

B. Municipal Development and Economic Opportunities (Economic Growth Objective)

Stimulating Rural Economic Development. Assistance will be provided to local governments, enterprises and individuals to create economic opportunities and raise incomes while addressing the needs of poor and vulnerable groups and individuals in seven municipalities to be mutually agreed by the Parties. Following broad approaches, the project will address challenges faced by the rural poor, including disadvantaged, food insecure, vulnerable and or internally displaced persons (IDPs).

In partnership with municipal governments and communities, assistance will support the development of development planning tools, and community and municipality specific plans. Such plans will include social safety nets for the most vulnerable and rapid-response livelihood recovery strategies to assist communities to recover from natural disasters or other localized economic shocks. To ensure sustainability, the project will develop the capacity of appropriate government personnel and community leaders to maintain planning tools, generate plans and measure results. The project will support linkages with the establishment and implementation of Regional Development Plans and the State Strategy for Regional Development. In line with such development plans, the assistance will:

- Contribute to designing and funding small infrastructure projects (e.g. irrigation channel cleaning, farm to market roads).
- Provide technical assistance to develop targeted economic opportunities (e.g., horticulture, beekeeping, livestock) from production through market linkages.
- Facilitate increased access to information, inputs, financing.
- Explore, and if feasible develop, alternative employment creation schemes.

The Project will also assist highly vulnerable groups, including the elderly, the disabled, and youth to engage in social and economic activities in the community or regions. In addition to addressing livelihood constraints faced by the rural poor, assistance will focus on IDP communities to establish a model to promote the sustainable maintenance and operations of housing units that were financed with USG funds.

C. IDP Housing (Humanitarian Assistance Objective)

Upgrading of IDP Settlements Built After the August 2008 War. USAID will provide upgrades for nearly 4,000 houses constructed after the August 2008 war by the GOG. Due to the emergency situation following the conflict, these houses were often focused on meeting only essential housing needs. The GOG is now in the process of improving the overall condition of these houses. USAID will compliment the work of the GOG by providing facilities such as a shower, sink, toilet, and water taps in residences where appropriate. In addition to improving the

overall living conditions of the IDPs, it is anticipated that these housing upgrades will increase the re-sale value of these houses.

USAID proposes to provide technical and financial assistance to design and install potable water systems and improve liquid and solid waste disposal in these settlements. Specific actions to be undertaken as a part of this activity include: water supply improvements, installation of indoor plumbing, and installation of septic systems. USAID will prioritize IDP settlements where water availability is not a constraint for the installation of indoor water taps. Where water supplies are insufficient to support the installation of indoor water taps, USAID will explore opportunities to either drill additional (or deeper) water wells or to obtain water from other sources.

In addition, Parties will seek to use appropriate water conservation and recycling measures. This might include the use of:

- Indoor water tap control devices;
- Water re-use systems for the irrigation of agriculture crops;
- Use of grey water to flush toilets;
- Renewable and energy efficient water heating mechanisms;
- Waste water treatment in constructed wetlands; and
- Water metering, scheduling, and payment systems.

Rehabilitation of Housing for IDPs Affected by the 1990s Conflict. Many of the IDPs from the 1990s conflict remain in collective centers where the living conditions are extremely poor. While the GOG hopes to provide new housing for a portion of this population, it also intends to rehabilitate collective centers and other buildings for IDPs. The rehabilitation of these buildings is consistent with the MIDPOTAR's interest in improving the overall living conditions of IDPs.

The MIDPOTAR is in the process of identifying additional buildings for USAID rehabilitation. The list of buildings to be rehabilitated is part of the MIDPOTAR IDP housing data base. As part of the selection process, the MDF is assessing the potential of approximately thirty-five buildings that could potentially be rehabilitated. (Approximately one-hundred buildings will be assessed for rehabilitation during the course of the activity.). The buildings are both State and privately owned. Privately owned buildings that have been identified for rehabilitation will be purchased by the GOG. The buildings that are being considered for rehabilitation are located in cities throughout the country, and may include: Tbilisi, Rustavi, Qareli, Khashuri, Kutasi, Khobi, Jvari and Zugdidi. Following building rehabilitation, the property titles will be transferred to the IDPs. USAID will participate in the selection of the buildings to be rehabilitated. Some of the key criteria for making this determination will include the: overall integrity of the building, size of apartments, rehabilitation cost per occupant, and condition of building infrastructure (e.g., water, sewage, electricity), and livelihood opportunities.

If the GOG is not able to identify a significant number of existing buildings to rehabilitate, then USAID may consider other alternatives to assist IDPs in who are in need of durable housing, based upon the IDP housing plan and the mutual agreement of the Parties.

Contribute to Overall Sustainability of the IDP Housing. A variety of actions could be used to ensure that the rehabilitated housing units do not fall into disrepair. This activity component will promote community-based participation by IDPs in the maintenance, repair, and management of their housing units. USAID will provide technical assistance, training, and small grants to assure overall physical and financial sustainability of the housing program. Below are illustrative approaches that could be used to address the long-term sustainability of IDP housing.

1. *Establish Homeowners Associations for IDP Housing Communities.* The key function of the homeowners associations will be to prevent the housing from falling into disrepair. It will provide a vehicle for residents to collectively manage the common spaces of the housing area. Ideally, the homeowners associations will generate income by providing tenant support services (e.g., home repair). In addition, USAID will assist the housing associations to develop effective mechanisms for communication with appropriate government institutions.

2. *Sustainable Housing Maintenance.* Poor housing infrastructure maintenance is a widespread problem. As most of the IDP beneficiaries come from a farming background, they are often unfamiliar with the repair of modern household systems. Training could be provided to beneficiaries in routine home maintenance. (The training will be particularly important if new and innovative infrastructure technologies are used.) This could include the provision of maintenance tool kits, etc.

VI. Roles and Responsibilities of the Parties.

A. Government of the United States of America

In addition to providing up to \$83,069,599 for Municipal Infrastructure, Municipal Development and Economic Opportunities and IDP housing assistance, USAID will:

- i. As appropriate, allow Grantee participation in, and access to information related to, any USAID project procurement activities under this agreement, including participation in procurement evaluation panels for major activities. In such an event, the Grantee's representative shall comply with all applicable US law and regulation pertaining to participation in such panels, and may be required to sign appropriate non-disclosure and conflict of interest documents;
- ii. Provide Implementation Letters to inform the Grantee of decisions regarding implementation mechanisms and awards for performance of activities under this Agreement;
- iii. Invite representatives of the Ministry of Regional Development and Infrastructure, Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, and Ministry of Agriculture to participate in audits required to satisfy USG regulations;
- iv. Collaborate with the Grantee on monitoring and evaluation procedures related to municipal/regional infrastructure assistance; and
- v. Share with the Grantee any USAID-funded environmental assessments related to the assistance.

B. Government of Georgia

- i. Strategic Planning Alignment:

Joint IDP Housing and Infrastructure Work Plan. In consultation with local authorities, the Grantee, through MIDPOTAR and the MRDI, shall develop a joint work plan with an appropriate planning horizon. The work plan will identify IDP housing rehabilitation, construction, and infrastructure priorities based on a gap analysis.

Municipal Development Planning Model; The Grantee shall undertake necessary actions to adopt the Municipal Development Planning process.

- ii. Transparency and Accountability. The Grantee supports transparency and consultation in the delivery of assistance under this Agreement as follows:

The Grantee shall ensure full application of the GOG *Guiding Principles, Criteria and Procedures governing and Process of Durable housing Allocation*, including compliance with applicable international standards adopted by Georgia and Georgian law regarding the rights of IDPs.

The Grantee shall update the IDP action plan periodically, taking into account information received through monitoring and consultation. The Grantee shall use a participatory consultative process involving IDPs during the development of the Action Plan and IDP housing and infrastructure activities.

The Grantee shall make public the criteria used to prioritize IDPs selected to receive durable housing and shall use a consultative approach involving IDP beneficiaries rehabilitation to be carried out.

The Grantee shall use a civic consultation process for development, selection and implementation of all infrastructure projects, which shall communicate infrastructure development plans to affected local citizens and gather and incorporate participant feedback and concerns.

- iii. Sustainability. The Grantee will develop and implement all housing and infrastructure activities in a manner to ensure long-term sustainability, as follows:

The Grantee may, where appropriate, encourage the use of homeowners associations for the management and maintenance of housing common grounds and water, garbage, and sewage systems.

Prior to the completion of this Agreement, the Grantee shall transfer full title for all IDP housing supported under this Agreement to IDPs.

The Grantee shall include a sustainability plan in each project design for municipal infrastructure and irrigation, including, as appropriate, fees and collection methodologies, management responsibilities, management capacity, maintenance and funding. Wherever appropriate Grantee should undertake responsibility to provide needed yearly funding for rehabilitated municipal/community infrastructure maintenance to the respective local administrations.

The Grantee shall retain control of all USAID-funded municipal infrastructure works throughout the period of the Agreement, except as the Parties may otherwise agree in writing. Assignment to entities under Grantee's controlling ownership shall be consistent with this commitment.

- iv. Standards: The Grantee shall ensure that all housing, infrastructure and other works provided under this Agreement are constructed and maintained in accordance with all applicable standards, including:

The Grantee shall ensure that all construction funded under this Agreement is compliant with legally adopted Georgian Building Standards, except as USAID may otherwise approve in writing. The Grantee shall ensure compliance with MIDPOTAR *Standards for Rehabilitation, Conversion or Construction Works for Durable Housing for IDPs* for all construction of IDP housing.

The Grantee agrees that all construction and infrastructure will make use of energy-efficient materials and techniques as appropriate

The Grantee agrees to comply with the Georgian environmental law and any USAID environmental requirements in all USAID funded activities carried out under this Agreement.

To the extent the Municipal Development Fund (MDF) conducts procurements funded under this Agreement, the Grantee shall ensure that the MDF shall use mutually agreed procedures for all such procurements. Such procurements may combine procedures of the Georgian Procurement Law with requirements specific to USAID.

- v. Links to other Projects: The GRANTEE shall make reasonable efforts to link IDP housing and municipal infrastructure activities to other USAID programs.

The GRANTEE should actively seek integration and collaboration with the USAID projects, including Integrated Natural Resource Management in Watersheds (INRMW) Program, Economic Prosperity Initiative (EPI), Good Governance in Georgia (G3), FORECAST and Vocational Education.

In Particular, the Parties will seek to link USAID FORECAST and G3 efforts to support National and Regional Development Strategy implementation.

VII. Monitoring and Evaluation.

The indicators agreed upon in Article IV, above, may be further developed in Implementation Letters to include additional descriptions, quantities, periodicity and appropriate sources or means for obtaining and measuring data. Substantive changes or additions will require mutually agreed Implementation Letters. Targets established by Implementation Letters will be based on current trends at the time and the estimated impacts of USAID, Grantee and other donor interventions. Targets will be re-examined and adjusted, if necessary, as additional data becomes available.

USAID intends to use an independent third party architecture and engineering firm to support monitoring of the activities funded under this Agreement. Additionally, specific monitoring and evaluation plans, to include specific internal, joint or third-party evaluations, reports to be developed and evaluations schedules, shall be set forth in Implementation Letters.

USAID may take corrective action based on the results of the monitoring and evaluation of the activities and results framework data, or at the request of the Grantee. Corrective action may include, but is not limited to, discontinuing, reducing or otherwise modifying one or more ongoing activities, or adding new activities. Funds allotted to activities may be discontinued, reduced or shifted to existing activities or new activities in furtherance of the Objective.

VIII. Other Implementation Issues.

The Parties agree that with respect to the audit provisions set forth in Section B.5 of Annex 2 to this Agreement (Standard Provisions), to the extent USAID funds non-grantee implementing partners directly for any activities under this Agreement, USAID will include necessary audit provisions in its implementing agreements with such partners in lieu of the Grantee submitting the required audit plan as described in that section.

To the extent USAID funds activities under this Agreement through Grantee entities or Grantee-owned entities, detailed auditing plans shall be included in the implementing grants or contracts, and such auditing plans shall be consistent with the provisions of B.5 of the Standard Provisions Annex and include provisions on the methodology, funding and timing of audits of host country contractors, host government owned organizations and other sub-recipients receiving funds directly from the Grantee.

Attachment 1 to Annex 1

USAID FINANCIAL PLAN:

INFRASTRUCTURE, ECONOMIC OPPORTUNITIES AND IDP HOUSING ASSISTANCE AGREEMENT FOR FY 2010-2013

	1207	FY09 Supp	FY 10 AEECA	FY 11	FY 12	Recovery	Total Initial Obligation	Total Estimated Contribution
NEO	\$6,842,924	\$7,110,000	\$2,200,000	\$3,000,000	\$3,000,000	\$262,640	\$16,415,563	\$22,415,563
Municipal Infrastructure	\$11,152,428	\$9,500,000					\$20,652,428	\$20,652,428
IDP Housing Upgrades		\$34,668,597					\$34,668,597	\$34,668,597
IDP Housing Oversight		\$4,331,403					\$4,331,403	\$4,331,403
Program Support	\$586,607	\$415,000					\$1,001,607	\$1,001,607
Total amount:	\$18,581,959	\$56,025,000	\$2,200,000	\$3,000,000	\$3,000,000	\$262,640	\$77,069,599	\$83,069,599

Annex 2
Standard Provisions

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Standard Provisions

Article A: Definitions and Implementation Letters.

Section A.1. Definitions. As used in this Annex, the "Agreement" refers to the Assistance Agreement to which this Annex is attached and of which this Annex forms a part. Terms used in this Annex have the same meaning or reference as in the Agreement.

Section A.2. Implementation Letters. To assist the Grantee in the implementation of the Agreement, USAID, from time to time, will issue implementation letters ("Implementation Letters") that will furnish additional information about matters stated in this Agreement. The Parties may also issue jointly agreed-upon Implementation Letters to confirm and record their mutual understanding on aspects of the implementation of this Agreement. Implementation Letters can also be issued to record revisions or exceptions which are permitted by the Agreement.

Article B: General Covenants.

Section B.1. Consultation. The Parties will cooperate to assure that the Objective and Program Elements of this Agreement will be accomplished. To this end, the Parties, at the request of either, will exchange views on progress toward the Objective and Program Elements, the performance of obligations under this Agreement, the performance of any consultants, contractors, or suppliers engaged under the Agreement, and other matters relating to the Agreement.

Section B.2. Execution of Agreement. The Grantee will:

- (a) Carry out the Agreement and the activities required to be undertaken directly (or caused to be undertaken) by the Grantee, or cause the Agreement and such activities to be carried out with due diligence and efficiency, in conformity with sound technical, financial, and management practices, and in conformity with those documents, plans, specifications, contracts, schedules, or other arrangements, and with any modifications therein, approved by USAID pursuant to this Agreement; and
- (b) Provide qualified and experienced management for, and train such staff as may be appropriate for the maintenance and operation of activities financed under the Agreement, and, as applicable for continuing activities, cause those activities to be operated and maintained in such manner as to assure the continuing and successful achievement of the Objective and Program Elements under the Agreement.

Section B.3. Utilization of Goods and Services.

Any goods and services financed under this Agreement, unless otherwise agreed in writing by USAID, will be devoted to the Agreement until the completion or termination of the Agreement, and thereafter (as well as during any period of suspension of the Agreement) will be used to further the Objective of the Agreement or as USAID may direct in Implementation Letters.

Section B.4. Taxation.

(a) General Exemption. The Agreement and the assistance thereunder are free from any taxes imposed under laws in effect in the territory of the Grantee.

(b) Except as provided otherwise in this provision, the General Exemption in subsection (a) applies to, but is not limited to (1) any activity, contract, grant or other implementing agreement financed by USAID under this Agreement; (2) any transaction or supplies, equipment, materials, property or other goods (hereinafter collectively "goods") under (1) above; (3) any contractor, grantee, or other organization carrying out activities financed by USAID under this Agreement; (4) any employee of such organizations; and (5) any individual contractor or grantee carrying out activities financed by USAID under this Agreement.

(c) Except as provided otherwise in this provision, the General Exemption in subsection (a) applies to, but is not limited to, the following taxes:

- (1) Exemption 1. Customs duties, tariffs, import taxes, or other levies on the importation, use and re-exportation of goods or the personal belongings and effects (including personally-owned automobiles) for the personal use of non-national individuals or their family members. Exemption 1 includes, but is not limited to, all charges based on the value of such imported goods, but does not include service charges directly related to services performed to transfer goods or cargo.
- (2) Exemption 2. Taxes on the income, profits or property of all (i) non-national organizations of any type, (ii) non-national employees of national and non-national organizations, or (iii) non-national individual contractors and grantees. Exemption 2 includes income and social security taxes of all types and all taxes on the property, personal or real, owned by such non-national organizations or persons. The term "national" refers to organizations established under the laws of the Grantee and citizens of the Grantee, other than permanent resident aliens in the United States.
- (3) Exemption 3. Taxes levied on the last transaction for the purchase of goods or services financed by USAID under this Agreement, including sales taxes, value-added taxes (VAT), or taxes on purchases or rentals of real or personal property. The term "last transaction" refers to the last transaction by which the goods or services were purchased for use in the activities financed by USAID under this Agreement.

(d) If a tax has been levied and paid contrary to the provisions of an exemption, USAID may, in its discretion, (1) require the Grantee to refund to USAID or to others as USAID may direct the amount of such tax with funds other than those provided under the Agreement, or (2) offset the amount of such tax from amounts to be disbursed under this or any other agreement between the Parties.

(e) In the event of a disagreement about the application of an exemption, the Parties agree to promptly meet and resolve such matters, guided by the principle that the assistance furnished by USAID is free from direct taxation, so that all of the assistance furnished by USAID will contribute directly to the economic development of the country of the Grantee.

Section B.5. Reports and Information, Agreement Books and Records, Audits, and Inspections.

- (a) Reports and Information. The Grantee shall furnish USAID accounting records and such other information and reports relating to the Agreement as USAID may reasonably request.
- (b) Grantee Agreement Books and Records. The Grantee shall maintain accounting books, records, documents and other evidence relating to the Agreement, adequate to show, without limitation, all costs incurred directly by the Grantee under the Agreement, the receipt and use of goods and services acquired by the Grantee under the Agreement, agreed-upon cost sharing requirements, the nature and extent of solicitations of prospective suppliers of goods and services acquired by the Grantee, the basis of award of contracts and orders made directly by the Grantee, and the overall progress of the Agreement toward completion ("Agreement books and records"). The Grantee shall maintain Agreement books and records in accordance with generally accepted accounting principles prevailing in the United States, or at the Grantee's option, with approval by USAID, other accounting principles, such as those (1) prescribed by the International Accounting Standards Committee (an affiliate of the International Federation of Accountants) or (2) prevailing in the country of the Grantee. Agreement books and records shall be maintained for at least three years after the date of last disbursement by USAID or for such longer period, if any, required to resolve any litigation, claims or audit findings. For the avoidance of doubt, this Section B.5(b) applies solely to Grant funds expended directly by the Grantee.
- (c) Grantee Audit. If \$300,000 or more of USAID funds are expended directly by the Grantee in its fiscal year under the Agreement, the Grantee shall have financial audits made of the expenditures in accordance with the following terms, except as the Parties may otherwise agree in writing:
 - (1) With USAID approval, the Grantee shall use its Supreme Audit Institution or select an independent auditor in accordance with the "Guidelines for Financial Audits Contracted by Foreign Recipients" issued by the USAID Inspector General ("Guidelines"), and the audits shall be performed in accordance with the "Guidelines"; and
 - (2) The audit shall determine whether the receipt and expenditure of the funds provided under the Agreement are presented in accordance with generally accepted accounting principles agreed to in subsection (b) above and whether the Grantee has complied with the terms of the Agreement. Each audit shall be completed no later than nine months after the close of the Grantee's year under audit.
- (d) Sub-recipient Audits. The Grantee, except as the Parties may otherwise agree in writing, shall submit to USAID, in form and substance satisfactory to USAID, a plan for the audit of the expenditures of "covered" sub-recipients, as defined below, that receive funds in connection with a direct contract or agreement entered into directly with the Grantee pursuant to the activities contemplated by this Agreement.

- (1) A "covered" sub-recipient is one who expends \$300,000 or more in its fiscal year in "USAID awards" (i.e., as sub-recipients under USAID strategic objective and other grant agreements with foreign governments).
 - (2) The plan shall describe the methodology to be used by the Grantee to satisfy its audit responsibilities for covered sub-recipients. The Grantee may satisfy such audit responsibilities by relying on independent audits of the sub-recipients; expanding the scope of the independent financial audit of the Grantee to encompass testing of sub-recipients' accounts; or a combination of these procedures.
 - (3) The plan shall identify the funds made available to covered sub-recipients that will be covered by audits conducted in accordance with other audit provisions that would satisfy the Grantee's audit responsibilities. (A nonprofit organization organized in the United States is required to arrange for its own audits. A for-profit contractor organized in the United States that has a direct contract with USAID is audited by the cognizant U.S. Government Agency. A private voluntary organization organized outside the United States with a direct grant from USAID is required to arrange for its own audits. A host-country contractor should be audited by the Grantee's auditing agency.)
 - (4) The Grantee shall ensure that covered sub-recipients under direct contracts or agreements with the Grantee take appropriate and timely corrective actions; consider whether sub-recipients' audits necessitate adjustment of its own records; and require each such sub-recipient to permit independent auditors to have access to records and financial statements as necessary.
- (e) **Audit Reports.** The Grantee shall furnish or cause to be furnished to USAID an audit report for each audit arranged for by the Grantee in accordance with this Section within 30 days after completion of the audit and no later than nine months after the end of the period under audit.
 - (f) **Other Covered Sub-recipients.** For "covered" sub-recipients who receive funds under the Agreement pursuant to direct contracts or agreements with USAID, USAID will include appropriate audit requirements in such contracts or agreements and will, on behalf of the Grantee, conduct the follow-up activities with regard to the audit reports furnished pursuant to such requirements.
 - (g) **Cost of Audits.** Subject to USAID approval in writing, costs of audits performed in accordance with the terms of this Section may be charged to the Agreement.
 - (h) **Audit by USAID.** USAID retains the right to perform the audits required under this Agreement on behalf of the Grantee by utilizing funds under the Agreement or other resources available to USAID for this purpose, conduct a financial review, or otherwise ensure accountability of organizations expending USAID funds regardless of the audit requirement.
 - (i) **Opportunity to Audit or Inspect.** The Grantee shall afford authorized representatives of USAID the opportunity at all reasonable times to audit or inspect activities financed under the Agreement, the utilization of goods and services financed by USAID, and books, records and other documents relating to the Agreement.

- (j) Sub-recipient Books and Records. The Grantee will incorporate paragraphs (a), (b), (d), (e), (g), (h) and (i) of this provision into all sub-agreements with non-U.S. organizations which meet the \$300,000 threshold of paragraph (c) of this provision. Sub-agreements with non-U.S. organizations, which do not meet the \$300,000 threshold, shall, at a minimum, incorporate paragraphs (h) and (i) of this provision. Sub-agreements with U.S. organizations shall state that the U.S. organization is subject to the audit requirements contained in OMB Circular A-133.

Section B.6. Completeness of Information. The Grantee confirms:

- (a) that the facts and circumstances of which it has informed USAID, or caused USAID to be informed, in the course of reaching agreement with USAID on the Agreement, are accurate and complete, and include all facts and circumstances that might materially affect the Agreement and the discharge of responsibilities under this Agreement; and
- (b) that it will inform USAID in timely fashion of any subsequent facts and circumstances that might materially affect, or that it is reasonable to believe might so affect, the Agreement or the discharge of responsibilities under this Agreement.

Section B.7. Other Payments. Grantee affirms that no payments have been or will be received by any official of the Grantee in connection with the procurement of goods or services financed under the Agreement, except fees, taxes, or similar payments legally established in the country of the Grantee.

Section B.8. Information and Marking. The Grantee will give appropriate publicity to the Agreement as a program to which the United States has contributed, identify Agreement activity sites, and mark goods financed by USAID, as described in Implementation Letters.

Article C: Procurement Provisions.

Section C.1. Source and Origin.

C.1. Source and Origin.

(a) Except as noted herein, or in a sub-agreement issued by USAID, Grant funds will be used to finance the cost of goods and services having their source and origin, and with respect to suppliers of goods and services, the nationality, in countries included in Geographic Code 000 or 110 (Georgia, the United States, and the Newly Independent States) as in effect at the time orders are placed or contracts entered into for such goods or services. Exceptions to this requirement include local procurement transactions in accordance with USAID policy or procurements made after obtaining source, origin, and nationality waivers from USAID in writing. If activities are implemented by Grantee organizations, such as MDF, under the Agreement, USAID will provide the details of its source, origin and nationality rules, including its local procurement policy, in an Implementation Letter.

Additionally:

- (1) Ocean transportation costs shall be financed under the Agreement only on vessels under flag registry of countries included in Code 935. Also see Section C.6 on use of U.S. flag vessels.

(2) The country of the Grantee is an eligible source for foreign exchange cost for marine insurance, if otherwise eligible under Section C.7(a).

(3) Any motor vehicles financed under the Agreement will be of United States manufacture, except as USAID may otherwise agree in writing.

(b) Local Currency Costs. Disbursements for Local Currency Costs will be used exclusively to finance the costs of goods and services required for the Agreement which meet the requirements of USAID's local procurement policy which will be provided in an Implementation Letter.

(c) The source and origin of ocean and air shipping will be deemed to be the ocean vessel's or aircraft's country of registry at the time of shipment.

(d) Provisions concerning restricted and ineligible goods and services may be provided in an Implementation Letter.

(e) Transportation by air of property or persons financed under this agreement will be on carriers holding United States certification, to the extent service by such carriers is available under the Fly America Act. This requirement may be further described by USAID in Implementation Letters.

Section C.2. Eligibility Date. No goods or services may be financed under the Agreement which are procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement, except as the Parties may otherwise agree in writing.

Section C.3. Plans, Specifications and Contracts. In order for there to be mutual agreement on the following matters, and except as the Parties may otherwise agree in writing:

(a) The Grantee will furnish to USAID upon preparation:

- (1) any plans, specifications, procurement or construction schedules, contracts, or other documentation between the Grantee and third parties, relating to goods or services to be financed under the Agreement, including documentation relating to the prequalification and selection of contractors and to the solicitation of bids and proposals. Material modifications in such documentation will likewise be furnished to USAID on preparation; and
- (2) such documentation will also be furnished to USAID, upon preparation, relating to any goods or services, which, though not financed under the Agreement, are deemed by USAID to be of major importance to the Agreement. Aspects of the Agreement involving matters under this subsection (a)(2) will be identified in Implementation Letters.

(b) Documents related to the prequalification of contractors, and to the solicitation of bids or proposals for goods and services financed under the Agreement will be approved by USAID in writing prior to their issuance, and their terms will include United States standards and measurements;

(c) Contracts and contractors financed under the Agreement for engineering and other professional services, for construction services, and for such other services, equipment, or materials as may be specified in Implementation Letters, will be approved

by USAID in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by USAID prior to execution; and

(d) Consulting firms used by the Grantee for the Agreement but not financed under the Agreement, the scope of their services and such of their personnel assigned to activities financed under the Agreement as USAID may specify, and construction contractors used by the Grantee for the Agreement but not financed under the Agreement, shall be acceptable to USAID.

Section C.4. Reasonable Price. No more than reasonable prices will be paid for any goods or services financed, in whole or in part, under the Agreement. Such items will be procured on a fair and, to the maximum extent practicable, competitive basis.

Section C.5. Notification to Potential Suppliers. To permit all United States firms to have the opportunity to participate in furnishing goods and services to be financed under the Agreement, the Grantee will furnish USAID such information with regard thereto, and at such times, as USAID may request in Implementation Letters.

Section C.6. Transportation

- (a) In addition to the requirements in Section C.1(a), costs of ocean or air transportation and related delivery services may not be financed under the Agreement, if the costs are for transportation under an ocean vessel or air charter which has not received prior USAID approval.
- (b) Unless USAID determines that privately owned United States-flag commercial ocean vessels are not available at fair and reasonable rates for such vessels, or otherwise agrees in writing:
- (1) at least fifty percent (50%) of the gross tonnage of all goods (computed separately for dry bulk carriers, dry cargo liners and tankers) financed by USAID which may be transported on ocean vessels will be transported on privately owned United States-flag commercial vessels; and
 - (2) at least fifty percent (50%) of the gross freight revenue generated by all shipments financed by USAID and transported to the territory of the Grantee on dry cargo liners shall be paid to or for the benefit of privately owned United States-flag commercial vessels. Compliance with the requirements of (1) and (2) of this subsection must be achieved with respect to both any cargo transported from U.S. ports and any cargo transported from non-U.S. ports, computed separately.

Section C.7. Insurance.

- (a) Marine insurance on goods financed by USAID which are to be transported to the territory of the Grantee may be financed as a foreign exchange cost under this Agreement provided
- (1) such insurance is placed at the most advantageous competitive rate;

- (2) such insurance is placed in a country which is authorized under Section C.1(a); and
- (3) claims thereunder are payable in U.S. dollars or any freely convertible currency unless USAID agrees otherwise in writing.

If the Grantee (or government of the Grantee), by statute, decree, rule, regulation, or practice discriminates with respect to USAID-financed procurement against any marine insurance company authorized to do business in any State of the United States, then all goods shipped to the territory of the Grantee financed by USAID hereunder shall be insured against marine risks and such insurance shall be placed in the United States with a company or companies authorized to do marine insurance business in the United States.

- (b) Except as USAID may otherwise agree in writing, the Grantee will insure, or cause to be insured, goods financed under the Agreement imported for the Agreement against risks incident to their transit to the point of their use under the Agreement; such insurance will be issued on terms and conditions consistent with sound commercial practice and will insure the full value of the goods. Any indemnification received by the Grantee under such insurance will be used to replace or repair any material damage or any loss of the goods insured or will be used to reimburse the Grantee for the replacement or repair of such goods. Any such replacement will be of source and origin of countries listed in USAID Geographic Code 935 as in effect at the time of replacement and, except as the Parties may agree in writing, will be otherwise subject to the provisions of the Agreement.

Section C.8. U.S. Government-Owned Excess Property. The Grantee agrees that wherever practicable United States Government-owned excess personal property, in lieu of new items financed under the Agreement, should be utilized. Funds under the Agreement may be used to finance the costs of obtaining such property.

Article D: Disbursements. Disbursements will be made through such means as the Parties agree to in writing or as set forth in Annex 1.

Section D.1. Rate of Exchange. If funds provided under the Agreement are introduced into Georgia by USAID or any public or private agency for purposes of carrying out obligations of USAID hereunder, the Grantee will make such arrangements as may be necessary so that such funds may be converted into local currency at the highest lawful rate available to the National Bank of Georgia on the date of the conversion.

Article E: Termination; Remedies.

Section E.1. Suspension and Termination.

- (a) Either Party may terminate this Agreement in its entirety by giving the other Party thirty (30) days written notice. USAID also may terminate this Agreement in part by giving the Grantee thirty (30) days written notice, and suspend this Agreement in whole or in part upon giving the Grantee written notice. In addition, USAID may terminate this Agreement in whole or in part, upon giving the Grantee written notice, if (i) the Grantee fails to comply with any provision of this Agreement, (ii) an event occurs that USAID determines makes it improbable that the Objective or Program Elements of the Agreement or the assistance program will be attained or that the Grantee will be able to

perform its obligations under this Agreement, or (iii) any disbursement or use of funds in the manner herein contemplated would be in violation of the legislation governing USAID, whether now or hereafter in effect.

- (b) Except for payment which the Parties are committed to make pursuant to non-cancellable commitments entered into with third parties prior to such suspension or termination, suspension or termination of this entire Agreement or part thereof will suspend (for the period of the suspension) or terminate, as applicable, any obligation of the Parties to provide financial or other resources to the Agreement, or to the suspended or terminated portion of the Agreement, as applicable. Any portion of this Agreement which is not suspended or terminated shall remain in full force and effect.
- (c) In addition, upon such full or partial suspension or termination, USAID may, at USAID's expense, direct that title to goods financed under the Agreement, or under the applicable portion of the Agreement, be transferred to USAID if the goods are in a deliverable state.

Section E.2. Refunds.

- (a) In the case of any disbursement which is not supported by valid documentation in accordance with this Agreement, or which is not made or used in accordance with this Agreement, or which was for goods or services not used in accordance with this Agreement, USAID, notwithstanding the availability or exercise of any other remedies under this Agreement, may require the Grantee to refund the amount of such disbursement in U.S. Dollars to USAID within sixty (60) days after receipt of a request therefor.
- (b) If the failure of Grantee to comply with any of its obligations under this Agreement has the result that goods or services financed or supported under the Agreement are not used effectively in accordance with this Agreement, USAID may require the Grantee to refund all or any part of the amount of the disbursements under this Agreement for or in connection with such goods or services in U.S. Dollars to USAID within sixty (60) days after receipt of a request therefor.
- (c) The right under subsections (a) or (b) to require a refund of a disbursement will continue, notwithstanding any other provision of this Agreement, for three years from the date of the last disbursement under this Agreement.
- (d) (1) Any refunds under subsections (a) or (b), or (2) any refund to USAID from a contractor, supplier, bank or other third party with respect to goods or services financed under the Agreement, which refund relates to an unreasonable price for or erroneous invoicing of goods or services, or to goods that did not conform to specifications, or to services that were inadequate, will (A) be made available first for the Agreement, to the extent justified, and (B) the remainder, if any, will be applied to reduce the amount of the Grant.
- (e) Any interest or other earnings on funds disbursed by USAID to the Grantee under this Agreement prior to the authorized use of such funds for the Agreement will be returned to USAID in U.S. Dollars by the Grantee, unless USAID otherwise agrees in writing.

Section E.3. Non-waiver of Remedies. No delay in exercising any right or remedy accruing to a Party in connection with its financing under this Agreement will be construed as a waiver of such right or remedy.

Section E.4. Assignment. The Grantee agrees, upon request, to execute an assignment to USAID of any cause of action which may accrue to the Grantee in connection with or arising out of the contractual performance or breach of performance by a Party to a direct U.S. Dollar contract which USAID financed in whole or in part out of funds granted by USAID under this Agreement.

Article F: Miscellaneous.

Section F.1. Investment Promotion.

- (a) Except as specifically set forth in the Agreement or otherwise authorized by USAID in writing, no funds or other support provided hereunder may be used for any activity that involves investment promotion in a foreign country.
- (b) In the event the Grantee is requested or wishes to provide assistance in the above area or requires clarification from USAID as to whether the activity would be consistent with the limitation set forth above, the Grantee must notify USAID and provide a detailed description of the proposed activity. The Grantee must not proceed with the activity until advised by USAID that it may do so.
- (c) The Grantee must ensure that its employees and subcontractors and sub-recipients providing investment promotion services hereunder are made aware of the restrictions set forth in this clause and must include this clause in all subcontracts and other sub-agreements entered into hereunder.

Section F.2. Prohibition on Assistance to Drug Traffickers. USAID reserves the right to terminate this Agreement or take other appropriate measures if the Grantee or a key individual of the Grantee is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140.

Section F.3 Terrorist Financing. The Grantee is reminded that U.S. Executive Orders and U.S. law prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism and specially designated nationals and blocked persons identified by the U.S. Department of Treasury (Office of Foreign Assets Control). It is the legal responsibility of the Grantee under this Agreement to ensure compliance with these Executive Orders and laws. This provision must be included in all subcontracts or subawards issued under this Agreement.

Section F.4 Prohibition on Funding Foreign Government Delegations to International Conferences. Except as USAID may otherwise agree in writing, funds obligated under this Agreement which are provided by USAID from the Foreign Operations, Export Financing, and Related Programs Appropriations Act for any U.S. Government fiscal year after fiscal year 1999 may not be used to finance the travel, per diem, hotel expenses, meals, conference fees or other conference costs for any member of a foreign government's delegation to an international conference sponsored by a public international organization. This restriction may be further described by USAID in Implementation Letters.

AMENDMENT NUMBER ONE

TO

Assistance Agreement between Georgia and the United States of America for "Improved Infrastructure, Economic Opportunities, and Support for Internally Displaced Persons", dated August 12, 2010

USAID Assistance Agreement No. AAG-114-G-10-002

September 21, 2011

AMENDMENT NUMBER ONE to the Assistance Agreement between Georgia, acting through the Ministry of Finance of Georgia (hereinafter referred to as the "Grantee") and the United States of America, acting through the United States Agency for International Development ("USAID") for "Improved Infrastructure, Economic Opportunities, and Support for Internally Displaced Persons", dated as of August 12, 2010 (referred to herein as the "Agreement").

WHEREAS, on August 12, 2010, the Grantee and USAID entered into the Assistance Agreement to further the mutual objectives of Economic Growth and Humanitarian Assistance in Georgia, as described in Annex 1 (the "Amplified Description") to the Agreement; and

WHEREAS, USAID and the Grantee desire to amend the Agreement in order to (a) increase the total amount obligated in the amount of \$14,781,000, from \$77,069,599 to \$91,850,599; (b) increase the USAID total estimated contribution by the amount of \$10,723,243, from \$83,069,599 to \$93,792,842 to provide additional support for Economic Growth activities; (c) amend Article 2, "Program Objectives, Areas and Elements" to reflect additional Areas and Elements supported by the Agreement; (d) to update Attachment 1 to Annex 1 of the Agreement, the "USAID Financial Plan" to reflect these changes; and (e) update Annex 1 ("Amplified Description"), section VI (A) of the Agreement, entitled "Government of the United States of America" to reflect the USAID total estimated contribution of \$93,792,842.

NOW, THEREFORE, the Parties to the Agreement hereby agree that the Agreement shall be further amended as follows:

1. Section 3.1(a) of the Agreement entitled "The Grant" is deleted in its entirety and the following is substituted therefore:

"(a) The Grant. To help achieve the Objective set forth in this Agreement, USAID, pursuant to the Foreign Assistance Act of 1961, as amended, hereby grants to the Grantee under the terms of the Agreement an amount not to exceed ninety-one million, eight hundred fifty thousand and five hundred ninety-nine United States ("U.S.") Dollars (\$91,850,599) (the "Grant")."

*Amended
11/09/11*

2. The first sentence of Section 3.1(b) of the Agreement, entitled "Total Estimated USAID Contribution", is deleted in its entirety and the following is substituted, therefore:

"(b) Total Estimated USAID Contribution. USAID's total estimated contribution to achievement of the Objective will be ninety-three million, seven hundred ninety-two thousand, eight hundred and forty two U.S. Dollars (\$93,792,842) which will be provided in increments."

3. Section 2.1 of the Agreement, entitled "Functional Objective, Program Areas" is deleted in its entirety and replaced with the following:

"Section 2.1. Functional Objective, Program Areas. In order to further the foreign assistance objectives of *Economic Growth and Humanitarian Assistance* (the "Functional Objectives") articulated by the Government of the United States of America under the Strategic Framework for United States Foreign Assistance, the Parties hereto agree to work together by focusing on activities in the areas of *Improved Economic Infrastructure in Strategic Sectors, Macroeconomic Foundation For Growth, Trade and Investment, Financial Sector, Agriculture, Private Sector Competitiveness, Economic Opportunity and Protection, Assistance and Solutions* (collectively, the "Program Areas," and, together with the Functional Objective, the "Objective")."

4. Annex 1, the table entitled "USAID FINANCIAL PLAN: INFRASTRUCTURE, ECONOMIC OPPORTUNITIES AND IDP HOUSING ASSISTANCE AGREEMENT FOR FY 2010-2013" is deleted in its entirety and the following is substituted therefore:

	Total Initial Obligation	Amendment One Obligation	Total Obligated Amount	Anticipated Future Obligations	Total Estimated Contribution
NEO	\$18,415,564	\$4,057,757	\$20,473,321	\$1,942,243	\$22,415,564
Municipal Infrastructure	\$20,206,435		\$20,206,435		\$20,206,435
IDP Housing Upgrades	\$34,668,597		\$34,668,597		\$34,668,597
IDP Housing Oversight	\$4,777,396		\$4,777,396		\$4,777,396
Economic Growth		\$10,723,243	\$10,723,243		\$10,723,243
Program Support	\$1,001,607		\$1,001,607		\$1,001,607
Total amount:	\$77,069,599	\$14,781,000	\$91,850,599	\$1,942,243	\$93,792,842

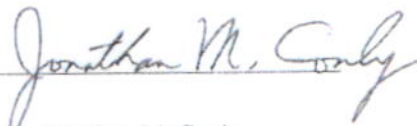
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 11/29/15

Note: The revised Financial Plan records a reduction of \$445,993 from the previously planned contribution to the "Municipal Infrastructure" line item. This funding has been moved to the "Engineering & Oversight" line item due to an increase in cost that arose during the negotiation of the oversight contract. For the avoidance of any doubt, the above reduction shall not affect USAID sub-obligation to MDF in amount of US \$17,730,500 contemplated by SubGrant Doc No. 114-11-IL-003.

5. Annex 1, Article VI(A), the amount "\$83,069,599" is deleted and the amount "\$93,792,842" is inserted therefore.
6. Except as amended herein, all other terms and conditions of the Agreement remain unchanged and in full force and effect.

IN WITNESS HEREOF, Georgia and the United States of America, each acting through its duly authorized representative, have caused this Amendment Number One to be signed in their names and delivered as of the day, month and year first written above:

GEORGIA
By: 
Name: Dimitri Gvindadze
Title: Minister of Finance of Georgia

UNITED STATES OF AMERICA
By: 
Name: Jonathan M. Conly
Title: Mission Director
USAID/Caucasus

Amendment Number ONE to the Assistance Agreement between Georgia and the United States of America for "Improved Infrastructure, Economic Opportunities, and Support for Internally Displaced Persons", dated August 12, 2010

*Amended
11/08/15*