



# ALABAMA DEPARTMENT OF TRANSPORTATION



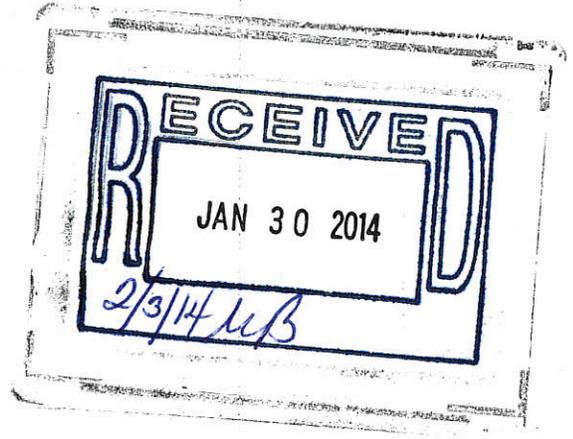
Robert Bentley  
GOVERNOR

SOUTHWEST REGION  
OFFICE OF REGION ENGINEER  
1701 I-65 WEST SERVICE ROAD NORTH  
MOBILE, ALABAMA 36618-1109  
TELEPHONE: (251) 470-8200  
FAX: (251) 473-3624

John R. Cooper  
TRANSPORTATION DIRECTOR

January 27, 2014

Mr. Cal Markert, P. E.  
County Engineer  
Baldwin County Highway Department  
P.O. Box 220  
Silverhill, AL. 36576



Dear Mr. Market:

Re: SB-AL02(501)  
Tensaw Parkway Scenic Byway Corridor Management Plan  
Baldwin County

Enclosed is one (1) original agreement between the Alabama Department of Transportation and Baldwin County Commission to obligate federal funds for the above-referenced project.

The County should be aware that any costs for the work associated with this project before authorization by FHWA and the notice to proceed from the Region Engineer is not eligible for reimbursement.

Should you have any questions or need additional information regarding this matter, please contact Mr. Andrew Wood at (251) 470-8320.

Sincerely,

Edwin L. Perry III, P.E.  
Design Engineer - Mobile

VEC/DCP/ELP/adw

Enclosure

c: File w/ enclosure

Section	Info	Action	File
Administration			
Pre-Construction	✓		
Right-of-Way			
Construction			
Maintenance			
Subdivisions			
Perks			
Accounting			



# ALABAMA DEPARTMENT OF TRANSPORTATION

1100 Museum Boulevard, Montgomery, Alabama 36110



Robert Bentley  
Governor

John R. Cooper  
Transportation Director



January 14, 2014

## MEMORANDUM

**TO:** Mr. Clay P. McBrien, P.E.  
State Office Engineer

**FROM:** Mr. Robert J. Jilla  
Multimodal Transportation Engineer

**By:** C. W. Colson, Jr.  
C. W. Colson, Jr.  
Special Programs Engineer

**SUBJECT:** Project SB-AL02(501)  
Tensaw Parkway Scenic Byway  
Corridor Management Plan  
Baldwin County  
Reference Number: 100042382

SECTION	INFO	ACTION	FILE
REGIONAL ENGINEER	<input checked="" type="checkbox"/>		
ASST REGION ENGINEER			
ADMINISTRATION			
OPERATIONS-MOBILE			
OPERATIONS-GROVE HILL			
CONSTRUCTION			
COUNTY TRANSPORTATION			
EQUIPMENT			
EEO			
MATERIALS			<input checked="" type="checkbox"/>
PRE-CONSTRUCTION			
SPECIAL PROJECTS			
DISTRICT MANAGERS			



The attached referenced original agreement between the Department of Transportation and the Baldwin County Commission is to obligate federal funds from a Scenic Byway Discretionary Grant to develop a Corridor Management Plan (CMP) for the Tensaw Parkway Scenic Byway

By copy of this memorandum, Mr. Vince Calametti, Southwest Region Engineer is requested to furnish a copy of the agreement to the County Commission. The County should be cautioned that any costs for the work associated with this project performed before authorization by FHWA and the notice to proceed from the Region Engineer is not eligible for reimbursement.

If you have questions, please call Mary Lou Crenshaw at 353-6439.

RJJ/CWC:mlc  
Attachment

- c: Mr. Vince Calametti(2 sets)
- Mrs. Tamiko Jordan (1 set)
- Mr. Bill Flowers (Audits)
- file

SECTION	INFO	ACTION	FILE
CONSULTANT	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
DESIGN			
LOCATION			
RIGHT-OF-WAY			
UTILITIES			



## AGREEMENT

### BETWEEN THE STATE OF ALABAMA AND THE BALDWIN COUNTY COMMISSION

#### Project SB-AL02(501) TENSAW PARKWAY SCENIC BYWAY CORRIDOR MANAGEMENT PLAN Reference Number: 100042382

#### PART ONE: INTRODUCTION

THIS AGREEMENT is made and entered into by and between the State of Alabama (acting by and through the Alabama Department of Transportation), hereinafter referred to as STATE; and the Baldwin County Commission, Baldwin County, Alabama, hereinafter referred to as COUNTY, in cooperation with the U.S. Department of Transportation, Federal Highway Administration, hereinafter referred to as FHWA; and

WHEREAS, the National Scenic Byways Program (NSBP) was established under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and re-authorized under the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) in 1998 and the Safe, Accountable, Flexible and Efficient Transportation Equity Act-Legacy for Users (SAFETEA-LU) in 2005 to recognize certain roads as National Scenic Byways based on their intrinsic qualities and to provide grants to these National Scenic Byways and to Byways recognized by the various states, to improve the quality and continuity of the traveler's experience; and

WHEREAS, the Conference Report accompanying the Transportation and related Agencies Appropriations Act, 2002, directs funds for the Mobile Bay Causeway under the National Scenic Byway Program; and

WHEREAS, the Tensaw Parkway Scenic Byway is recognized as an Alabama Scenic Byway because of its high degree of cultural, historic, archaeological, recreational, and natural qualities and includes the Mobile Bay Causeway; and

WHEREAS, the STATE and the COUNTY desire to cooperate in developing a Corridor Management Plan (CMP) for this scenic byway.

NOW, THEREFORE, the parties hereto, for, and in consideration of the premises stated herein do hereby mutually promise, stipulate, and agree as follows:

#### PART TWO: PROJECT PROVISIONS

A. The COUNTY will undertake a scenic byway project to develop a corridor management plan in accordance with this agreement and the guidelines established by the Alabama Scenic Byway Advisory Council, established by the Alabama Legislature.

- 1) Cost for the project will be financed, when eligible for federal participation, on the basis of 80 percent federal funds and 20 percent COUNTY funds, not to exceed a maximum amount of \$232,548.00 in federal funds. The estimated cost and participation by the various parties are as follows:

	Total <u>Estimated Cost</u>	Total Estimated <u>Federal Funds</u>	Estimated <u>local Funds</u>
Development of Corridor Management Plan	\$ 290,685.00	\$ 232,548.00	\$ 58,137.00
Total	<u>\$ 290,685.00</u>	<u>\$ 232,548.00</u>	<u>\$ 58,137.00</u>

It is understood that the above is an estimate only, and in the event the final cost exceeds the estimate, the COUNTY will be responsible for any overruns. The COUNTY will not be reimbursed for any costs in excess of the awarded amount. The project will commence upon execution of this agreement and upon written authorization to proceed from the STATE directed to the COUNTY. After obligation, these funds are available until expended.

- 2) The COUNTY will perform or have performed all services required to fulfill the purposes of this Agreement. The supervision of the project will be under the Southwest Region of the Alabama Department of Transportation.
- B. Project Funding: It is expressly understood that this is a cost reimbursement program and no federal funds will be provided to the COUNTY prior to accomplishment of work for which reimbursement is requested.
  - C. Project Budget: The COUNTY will develop and submit to the STATE for approval a project budget. This budget will be in such form and detail as may be required by the STATE. As a minimum, all major work activities will be described and an estimated cost and source of funds will be indicated for each activity. All cost for which the COUNTY seeks reimbursement must be included in a budget approved by the STATE in order to be considered for reimbursement. Budget adjustments may be necessary and may be allowed, subject to the approval of the STATE in writing, in order to successfully carry out the project.
  - D. Acquisition of Property: Acquisition of real property by the COUNTY as a part of this project will conform to and be in accordance with the provisions of the Federal Uniform Relocation Assistance & Real Property Acquisition Policies Act (49 CFR 24, Subpart B), all federal environmental laws, and all other applicable state and federal laws.
  - E. Purchase of Project Equipment and/or Services: The purchase of project equipment and/or services financed in whole or in part pursuant to this Agreement will be in accordance with applicable state and federal laws, rules, regulation, and procedures, including state competitive bidding requirements applicable to counties and municipalities in the State of Alabama when the purchase is made by any such entity. The COUNTY will, when authorized by the STATE, solicit bids and make awards for construction and/or services pursuant to this agreement. The COUNTY will not solicit bids until the entire bid package (plans, specification, estimates, etc.) has been reviewed and approved by the STATE. Following receipt of bids, the COUNTY will provide all bids to the STATE with a recommendation for award. The COUNTY will not award the contract until it has received written approval from the STATE.

- F. Invoicing: The COUNTY will, when appropriate, submit invoices to the STATE for reimbursement for work performed by or for the COUNTY in carrying out the terms of this agreement. Requests for reimbursement will be made on forms provide by the STATE and will be submitted through the Division Engineer for payment. The COUNTY may bill the STATE not more often than once per month for the funds due for work performed under this Agreement. Invoices for payment will be submitted in accordance with state law and will indicate that the payment is due, true, correct, unpaid and the invoice will be notarized. The cost allowable is the cost defined in 41 CFR Subpart 1-15.7 of the Federal Procurement Regulations and will include direct and indirect cost incurred in carrying out the project as shown in the approved application and the documents related thereto. Invoices for any work performed by the COUNTY under the terms of this agreement will be submitted within twelve (12) months after the completion and acceptance by the STATE for the work. Any invoices submitted after this twelve-month period will not be eligible for payment.
- G. Contracts under this Agreement: The COUNTY will not assign any portion of the work to be performed under this Agreement or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to the rights and responsibilities under this Agreement, without the prior written approval of the STATE.
- H. Records and Reports:
- 1) Establishment and Maintenance of Accounting Records: The COUNTY will establish and maintain, in accordance with requirements established by the STATE, separate accounts for the project, either independently or separately within its existing system, to be known as the Project Account. The cost accounting system must be adequate and acceptable to the STATE as determined by the auditor of the Alabama Department of Transportation.
  - 2) Documentation of Project Cost: All charges to the Project Account will be supported by properly executed invoices, contracts or vouchers, as applicable, evidencing in proper detail for nature and propriety of the charges, in accordance with the requirements of the STATE.
  - 3) Checks, Orders and Vouchers: All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the project will be clearly identified, readily accessible and to the maximum extent feasible, kept separate and apart from all other such documents.
  - 4) Financial Statements: The COUNTY will submit to the STATE, at such time as the STATE may require, such financial statements, data, records, contracts and other documents and items of any respect related to the project as may be requested by the STATE.
  - 5) Right of Access to Records: The STATE will have full access to and right to examine all project records at all times, and all records of any nature which in any manner relate to the project or to this Agreement in any way.
- I. Regulations: The STATE hereby obligates the COUNTY to become familiar with all state and federal laws, rules, regulations, and procedures applicable to this Agreement. The STATE, upon request, will furnish to the COUNTY a copy of any and all applicable state and federal laws, rules, regulations, and procedures.

- J. Point of Contact: The Southwest Region of the Alabama Department of Transportation will be the lead agency for the STATE relative to the work under this agreement and will be the point of contact for the COUNTY.
- K. All phases of work performed by the COUNTY on this project must be approved by the FHWA before commencing work.

### PART THREE: MISCELLANEOUS PROVISIONS

- A. Agency to Indemnify: The COUNTY will be responsible at all times for all of the work performed under this Agreement and the COUNTY will protect, defend, indemnify and hold harmless the State of Alabama, the Alabama Department of Transportation, the officials, officers, employees in both their official and individual capacities, and their agents and/or assigns, from and against any and all actions, damages, claims, loss, liabilities, including attorney's fees and expenses whatsoever or any amount paid in compromise thereof arising out of or connected with the work performed under this Agreement.  
By entering into this agreement, the COUNTY is not an agent of the STATE, its officers, employees, agents or assigns. The COUNTY is an independent entity from the STATE and nothing in this Agreement creates an agency relationship between the parties.
- B. Audit and Inspection: The COUNTY will permit the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, to inspect, at any time, any and all vehicles and equipment utilized or used in performance of the project; records of all transportation services rendered by the COUNTY in the use of such vehicles and equipment; and any and all data and records which in any way relate to the project or to the accomplishment of the project. The COUNTY will also permit the above noted persons to audit the books, records and accounts of the COUNTY pertaining to the project at any and all times, and the COUNTY will give its full cooperation to those persons or their authorized representatives, as applicable.
- C. Audit Requirements: The COUNTY will comply with all audit requirements set forth in the Federal Office of Management and Budget (OMB) circular A-128 or A-133 whichever is applicable.
- D. Termination: Either party has the right to terminate this Agreement at any time by giving thirty (30) days written notice of termination. Said notice will be mailed by certified or registered mail.
- E. Retention of Records: The COUNTY will retain all books, records, and other documents relative to this Agreement for a minimum of three (3) years after project termination, expiration of federal interest, or close out, and the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, will have full access to, and right to examine any of said materials at all reasonable times during said period.

- F. Performance: The COUNTY will commence, carry on and complete the project with all practical dispatch, in a sound, economical, and efficient manner.
- G. Equal Employment Opportunity: The COUNTY will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The COUNTY will take affirmative action to insure that applicants for employment are employed, and that employees be treated during their employment, without regard to their race, religion, color, sex, or national origin. Such actions will include, but not be limited to the following: employment; upgrading; demotion; transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Further, the STATE and the Secretary of the USDOT, or either of them or their respective authorize representative, will have full access to, and right to examine any and all COUNTY materials for the purpose of monitoring the COUNTY's compliance with the provisions of this section.
- H. Title VI-Civil Rights Act of 1964: The COUNTY will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C § 2000(d.) et seq.), the regulations of USDOT issued thereunder 49 CFR, Subtitle A, Part 21), and the assurance by the COUNTY pursuant thereto. Furthermore, the STATE and the Secretary of the USDOT, or either of them or their respective authorized representatives, will have full access to, and right to examine any and all COUNTY materials which will permit them to monitor the COUNTY for compliance with the provisions of this section.
- I. Prohibited Interest: No member, officer, or employee of the COUNTY during their tenure of employment, and for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds, profits, or benefits therefrom.
- J. Americans with Disabilities Act: The COUNTY will comply with all requirements of The Americans with Disabilities Act of 1990 (ADA).
- K. Arbitration: Any dispute concerning a question of fact in connection with the work not disputed of by this Agreement between the COUNTY and the STATE will be referred to the director of the State of Alabama Department of Transportation, whose decision will be final.
- L. Permission to Start Work: The COUNTY will not proceed with the project work until the STATE gives written authorization for the COUNTY to proceed.
- M. Participation by Disadvantaged Business Enterprises in Federal-Aid Programs: The recipients of funds under the terms of this agreement agree to ensure that Minority Business Enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement.
- N. Other Applicable Regulations: The COUNTY will comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act, 42 U.S.C. § 1857(h) as amended by 42 U.S.C. § 7401, et seq., Section 508 of the

Federal Water Pollution Act, 33 U.S.C. § 1368, Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

- O. Exhibits M and N are hereby attached to and made a part of this Agreement.
- P. Agreement Change: The terms of this Agreement may be modified by supplemental agreement duly executed by the parties hereto.
- Q. Drug Free Workplace Act of 1988: The COUNTY assures the STATE that it publishes a statement notifying employees of the policies in support of a drug free workplace; and establishes an ongoing drug-free awareness program.
- R. 7/24<sup>th</sup> Law: Nothing shall be construed under the terms of this Agreement by the COUNTY or the STATE that shall cause any conflict with Section 23-1-63, Code of Alabama, 1975.

IN WITNESS WHEREOF, the parties hereto cause this Agreement to be executed by those officers, officials and persons thereunto duly authorized, and the Agreement is deemed to be dated and to be effective on the date hereinafter stated as the date of the approval of the Governor of Alabama.

SEAL

ATTEST:

BALDWIN COUNTY COMMISSION,  
ALABAMA

BY: [Signature]  
County Administrator (Signature)

BY: [Signature]  
Chairman (Signature)

David Brewer  
Type name of Administrator

Charles F. Gruber  
Type name of Chairman

APPROVED AS TO FORM:

BY: [Signature]  
Jim R. Ippolito, Jr.  
Chief Counsel  
Alabama Department of Transportation



RECOMMENDED FOR APPROVAL:

[Signature]  
Vince Calametti  
Region Engineer

[Signature]  
Robert J. Jilla,  
Multimodal Transportation Engineer

[Signature]  
Ronald L. Baldwin, P.E.  
Chief Engineer

STATE OF ALABAMA  
ACTING BY AND THROUGH THE  
ALABAMA DEPARTMENT OF  
TRANSPORTATION

[Signature]  
John R. Cooper, Transportation Director

The foregoing Agreement is hereby executed in the name of the State of Alabama and signed by the Governor on this 8th day of January, 2014.

[Signature]  
Robert Bentley  
Governor, State of Alabama  
7/11/14

RESOLUTION NUMBER 2014-018

BE IT RESOLVED, by the County Commission of Baldwin County, Alabama as follows:

1. That the County enters into an Agreement with the State of Alabama, acting by and through the Alabama Department of Transportation for:

Project SB-AL02(501), Project Reference Number 100042382, a project to develop a Corridor Management Plan for the Tensaw Parkway Scenic Byway, including the Mobile Bay Causeway in Baldwin County, Alabama, which Agreement is before this Commission.

2. That the Agreement be executed in the name of the County, by its Chairman, for Baldwin County Commission and on its behalf.
3. That the Agreement be attested by the County Administrator and the seal of the County affixed thereto.

BE IT FURTHER RESOLVED that upon the completion of the execution of the Agreement by all parties, that a copy of such Agreement be kept on file by the County Administrator.

Passed, adopted and approved this 19<sup>th</sup> day of November, 2013.

ATTESTED:

  
County Administrator

  
Chairman, Baldwin County Commission



I, the undersigned qualified and acting County Administrator of the Baldwin County, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution passed and adopted by the County Commission of the County named therein, at a regular meeting of such Commission held on the 19<sup>th</sup> day of NOVEMBER, 2013, and that such resolution is on file in the County Administrator's Office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the County on this 19<sup>th</sup> day of NOVEMBER, 2013.



  
County Administrator

Received  
DEC 2013  
Trans. Planning  
& Modal Programs

**CERTIFICATION FOR FEDERAL-AID CONTRACTS: LOBBYING**

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative AGREEMENT, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the prospective participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

CONSULTANT 2/15/95  
REVISED 5/30/02  
REVISED 6/16/11

EXHIBIT N

**FUNDS SHALL NOT BE CONSTITUTED AS A DEBT**

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this AGREEMENT shall contravene any statute or Constitutional provision of amendment, either now in effect or which may, during the course of this AGREEMENT, be enacted, then the conflicting provision in the AGREEMENT shall be deemed null and void.

In any controversy concerning contract terms, or on a question of fact in connection with the work covered by this project, including compensation for such work, the decision of the Transportation Director regarding the matter in issue or dispute shall be final and conclusive on all parties.

For any and all disputes arising under the terms of this contract, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to consider using appropriate forms of non-binding alternative dispute resolution.

**TERMINATION DUE TO INSUFFICIENT FUNDS**

- a. If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.
- b. In the event of proration of the fund from which payment under this AGREEMENT is to be made, agreement will be subject to termination.

**NO GOVERNMENT OBLIGATION TO THIRD PARTY CONTRACTORS**

The STATE and CONSULTANT acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations of or liabilities to the STATE, CONSULTANT, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The CONSULTANT agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided to FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.