



ALABAMA  
DEPARTMENT OF TRANSPORTATION

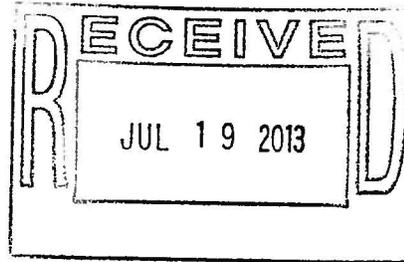


SOUTHWEST REGION  
OFFICE OF REGION ENGINEER  
1701 WEST I-65 SERVICE ROAD NORTH  
MOBILE, ALABAMA 36618-1109  
TELEPHONE: (251) 470-8200  
FAX (251) 473-3624

ROBERT BENTLEY  
GOVERNOR

JOHN R. COOPER  
TRANSPORTATION DIRECTOR

July 18, 2013



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

Dear Mr. Markert:

RE: STPLL-0200( )  
Paved Shoulders on CR-99 and South 7<sup>th</sup> Street  
Baldwin County

Enclosed please find an executed copy of the preliminary engineering agreement between Baldwin County and the State. The agreement is being forwarded for your files.

Should you have any questions or need additional information regarding this matter, please contact Mr. Edwin L. Perry III at (251) 470-8243.

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     |      |        |      |
| Parks            |      |        |      |
| Accounting       | ✓    |        |      |
|                  |      |        |      |
|                  |      |        |      |



# ALABAMA DEPARTMENT OF TRANSPORTATION

1409 Coliseum Boulevard, Montgomery, Alabama 36110



Robert Bentley  
Governor

John R. Cooper  
Transportation Director

June 12, 2013

## MEMORANDUM

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

FROM: Mr. Robert J. Jilla  
Multimodal Transportation Engineer

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

SUBJECT: STPLL-0200( )  
Paved shoulders on CR-99 and  
South 7<sup>th</sup> Street  
Baldwin County  
Reference Number: 100060018

| SECTION          | INFO | ACTION | FILE |
|------------------|------|--------|------|
| DIV ENGINEER     | Ma   |        |      |
| ADMINISTRATION 1 |      |        |      |
| ADMINISTRATION 2 |      |        |      |
| CONSTRUCTION     |      |        |      |
| COUNTY TRANS     |      |        |      |
| DISTRICT ENGRS   |      |        |      |
| EQUIPMENT        |      |        |      |
| MAINTENANCE      |      |        |      |
| MATERIALS        |      |        |      |
| PLANNING         |      |        |      |
| SPECIAL PROJ     |      |        |      |

EDWIN PERRY

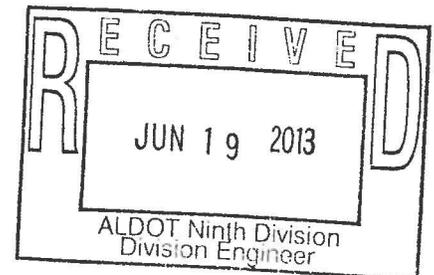
The attached referenced original agreement between the Department of Transportation and the Baldwin County Commission provides for preliminary engineering for the above referenced project.

By copy of this memorandum, Mr. Vince Calametti, Ninth Division 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 Division 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)
- Ms. Kayla Kelly (1 set)
- Mr. Bill Flowers (Audits)
- file



**AGREEMENT  
FOR  
PRELIMINARY ENGINEERING**

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

**Project STPLL-0200( )  
Paved shoulders on CR-99 from SR-42 (US-98) to Spanish Cove Drive  
and on South 7<sup>th</sup> Street from CR-99 to the Boat Ramp  
Baldwin County, Alabama  
Reference Number:100060018**

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, Alabama, hereinafter referred to as COUNTY, in cooperation with the United States Department of Transportation, Federal Highway Administration, hereinafter referred to as the FHWA; and

WHEREAS, a Transportation Improvement Program has been developed for the Pensacola, Florida, Lillian and Orange Beach urbanized area and certain transportation improvements and priorities are listed therein; and

WHEREAS, it is in the public interest for the STATE and the COUNTY to cooperate toward the implementation of the Transportation Improvement Program; and

WHEREAS, the STATE and the COUNTY desire to cooperate in a preliminary engineering project to design paved shoulders on CR-99 from SR-42 (US-98) to Spanish Cove Drive and on South 7<sup>th</sup> Street from CR-99 to the Boat Ramp in Baldwin County, Alabama.

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

- 1) The COUNTY will perform or have performed all services required to fulfill the purposes of this Agreement. The Ninth Division 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.
- 2) This Agreement will cover all aspects of the preliminary engineering phase of the project. The preliminary engineering phase is hereby defined as that work necessary to advance the development of the Project through construction authorization by FHWA. The preliminary engineering will be performed by or for the COUNTY and will include all environmental studies and documentation required by FHWA. If the COUNTY elects to utilize the service of a consulting engineer for any preliminary engineering and utilized these funds for such work, it will be necessary for the COUNTY to follow the procedures established by the ALDOT for selecting consulting engineers. It will also be necessary to obtain the permission of ALDOT before beginning the consultant selection process.

- 3) Funding for this Agreement is subject to the availability of Federal Aid funds at the time of authorization by FHWA.
- 4) This Project will be financed, when eligible for Federal participation, on the basis of 80 percent Federal funds and 20 percent COUNTY funds. The estimated cost and participation by the various parties are as follows:

|                         | <u>Total<br/>Estimated Cost</u> | <u>Total Estimated<br/>Federal Funds</u> | <u>Estimated<br/>Local Funds</u> |
|-------------------------|---------------------------------|--|----------------------------------|
| Preliminary Engineering | \$ 20,000.00                    | \$ 16,000.00                             | \$ 4,000.00                      |
| Total                   | \$ 20,000.00                    | \$ 16,000.00                             | \$ 4,000.00                      |

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 its proportional share of the final cost.

- 5) Any cost for work not eligible for Federal participation will be financed 100 percent by the COUNTY, which payment will be reflected in the final audit.
- 6) 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.
- 7) The COUNTY agrees that in the event the FHWA determines, due to rules and/or regulations of FHWA (including but not limited to delay of the projects, or delay of projects contemplated to be developed and accomplished in sequence to the current projects) that Federal funds expended on this project must be refunded to the FHWA, the COUNTY will reimburse and pay to the STATE a sum of money equal to the total amount of STATE and Federal funds expended under this Agreement.
- 8) 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 Ninth 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. 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.
- 9) The performances of the work covered by this Agreement will be in accordance with the current regulations and requirements of the STATE and FHWA.

- 10) Any service of the STATE necessary to carry out the intent of this Agreement will be in accordance with the current regulations and requirements of the STATE and FHWA.
- 11) The STATE will assist the COUNTY in any public involvement actions that may be required.
- 12) The STATE will provide without cost to the COUNTY information available from its records that will facilitate the performance of the work.
- 13) It is clearly understood by both parties that the STATE does not commit any STATE or Federal funds beyond those mentioned herein and that a separate Agreement will be required for the construction of the proposed improvements.
- 14) Agreement Change: The terms of this Agreement may be modified by supplemental agreement duly executed by the parties hereto.
- 15) A final audit will be made of all project records after the completion of the project and a copy will be furnished to the Department of Examiners of Public Accounts, in accordance with ACT 1994, No. 94-414. A final financial settlement will be made between the parties as reflected by the final audit and this Agreement.
- 16) 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.
- 17) By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.
- 18) 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.
- 19) 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.

20) Exhibits M and N are hereby attached to and made a part of this Agreement.

21) 7/24<sup>th</sup> Law: Nothing shall be construed under the terms of this Agreement by the CITY 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)  
DAVID A. Z. BRAND  
Type name of Administrator

BY: [Signature]  
Chairman (Signature)  
TUCKER BOBSEY  
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  
Division 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 5th day of June, 2013.

[Signature]  
Robert Bentley  
Governor, State of Alabama

[Signature]

CONSULTANT 3/19/90  
REVISED 7/18/90  
REVISED 6/16/11

EXHIBIT M

**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.

RESOLUTION NUMBER 2013-055

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 STPII-0200( ), Project Reference Number 100060018, a preliminary engineering project to design paved shoulders on CR-99 from SR-42 (US-98) to Spanish Cove Drive and on South 7<sup>th</sup> Street from CR-99 to the Boat Ramp 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 2<sup>nd</sup> day of April, 20 13.



ATTESTED:

[Signature]  
County Administrator

[Signature]  
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 2<sup>nd</sup> day of April, 20 13 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 2<sup>nd</sup> day of April, 20 13.



[Signature]  
County Administrator