



ALABAMA DEPARTMENT OF TRANSPORTATION
Bureau of County Transportation

1409 Coliseum Blvd., Montgomery, Alabama 36110-2060
Phone: (334) 242-6207 FAX: (334) 353-6530
Internet: <http://www.dot.state.al.us>



Robert Bentley
Governor

John R. Cooper
Transportation Director

June 8, 2016

Chair of County Commission
Baldwin County Commission
Silverhill, Alabama

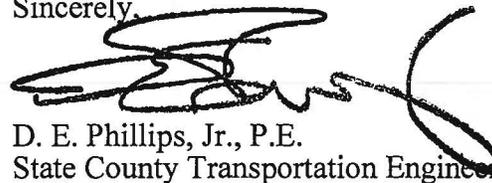
RE: ST-002-003-010
BCP 02-058-16
Baldwin County

Dear Chair of County Commission:

We are attaching a copy of the executed Agreement between the Alabama Department of Transportation and Baldwin County covering the financing of construction costs for the above project. In accordance with the Alabama Department of Transportation policy, only a machine copy is being furnished. If, for any reason in the future, you need a copy with original signatures, we will furnish you a certified copy of this Agreement.

This executed copy of the Agreement is for your information and file.

Sincerely,



D. E. Phillips, Jr., P.E.
State County Transportation Engineer

DEP:MBH:kb
Attachment

cc: Mr. Clay McBrien (Original Agreement)
Mr. Bill Flowers (Ms. Tamiko Jordan)
Mr. Jimmie L. Gray
Mr. Cal Markert
Mr. Vince Calametti
File

K-16-1137

AGREEMENT - ST

This Agreement is made and entered into by and between the STATE OF ALABAMA, acting by and through the ALABAMA DEPARTMENT OF TRANSPORTATION, party of the first part (hereinafter called the STATE), and BALDWIN COUNTY, ALABAMA (FEIN 63-6001408), party of the second part (hereinafter called the COUNTY):

WITNESSETH

'16 MAY 25 AM 10:57

WHEREAS, the STATE and COUNTY desire to cooperate in the intersection improvements at SR-3 (US-31) and Stagecoach Road (CR-72) in the City of Spanish Fort. Project #ST-002-003-010, BCP 02-058-16, CPMS Ref #100065257.

NOW THEREFORE, it is mutually agreed between the STATE and COUNTY as follows;

- A. The STATE will furnish any necessary Right-of-Way for the project without cost to the COUNTY.
- B. The STATE will adjust and/or relocate any necessary Utilities on the project without cost to the COUNTY.
- C. The STATE will make the survey, complete the plans and furnish all preliminary engineering for the project with STATE forces without cost to the COUNTY.
- D. If necessary, the STATE will file an Alabama Department of Environmental Management (ADEM) National Pollutant Discharge Elimination System (NPDES) Notice of Registration (NOR) (Code Chapter 335-6-12) for this work without cost to the COUNTY or this project. The STATE will be the permittee of record with ADEM for the permit. The STATE will be responsible for compliance with the permit and the COUNTY will have no obligation regarding the permit.
- E. The STATE will furnish all construction engineering and material sampling and testing.
- F. The COUNTY will advertise, let and award the contract in accordance with the applicable portions of Section 1-20 of the STATE's Guidelines for Operations (*Procedures for Processing State and Industrial Access Funded County and City Projects*) at the COUNTY's cost. The plans will be provided by the STATE to the COUNTY.
- G. Any deficiency in State funds, or overrun in construction costs will be borne by the STATE. In the event of an underrun in construction costs, the State funds will not exceed the actual cost.
- H. The estimated cost of this project shall be provided for from funds outlined below:

State Public Road and Bridge Funds	\$ 275,000.00
County Funds	0.00
Total Cost (Incl. E & I)	\$ 275,000.00
- I. The COUNTY shall make payments to the contractor with COUNTY funds base on the monthly estimates submitted to the COUNTY by the STATE. The COUNTY will submit reimbursement invoices for work performed under the terms of this agreement to the Alabama Department of Transportation within six (6) months after completion and acceptance of the project. Any invoices submitted after this six (6) month period will not be eligible for payment. The administration cost incurred by the COUNTY for the requirement stated in this paragraph shall be borne by the COUNTY.

J. The COUNTY shall be responsible at all times for all of the work performed under this agreement and, as provided in Ala. Code § 11-93-2 (1975), the COUNTY shall indemnify and hold harmless the State of Alabama, The Alabama Department of Transportation, its officers, officials, agents, servants, and employees.

For all claims not subject to Ala. Code § 11-93-2 (1975), the COUNTY shall indemnify and hold harmless the State of Alabama, the Alabama Department of Transportation, its officers, officials, agents, servants, and employees from and against any and all damages, claims, loss, liabilities, attorney's fees or expense whatsoever or any amount paid in compromise thereof arising out of, connected with, or related to the (1) work performed under this Agreement, (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the COUNTY pursuant to the terms of this agreement, or (3) misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the COUNTY, its officers, officials, agents, servants, and employees.

K. The COUNTY will be obligated for the payment of damages occasioned to private property, public utilities or the general public, caused by the legal liability (in accordance with Alabama and/or Federal law) of the COUNTY, its agents, servants, employees or facilities.

L. 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.

M. 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.

N. Exhibit N is attached hereto as a part hereof.

O. This agreement may be terminated by either party upon the delivery of a thirty (30) day notice of termination.

IN WITNESS WHEREOF, the parties hereto have caused 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 stated hereinafter as the date of the approval of the Governor of Alabama.



Clerk (Signature)

Donald J. Cook
Type Name of Clerk

RECOMMENDED

BALDWIN COUNTY, ALABAMA

BY: [Signature]
(Signature) Chairman
Baldwin County Commission

Tucker Dorsey
Type Name of Chairman

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

[Signature]
State County Transportation Engineer
D. E. Phillips, Jr., P.E.

[Signature]
Chief Engineer
Don T. Arkle, P.E.

This agreement has been legally reviewed
and approved as to form and content:

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

[Signature]
Transportation Director
John R. Cooper

THE WITHIN AND FOREGOING AGREEMENT IS HEREBY APPROVED ON THE 8th DAY
OF June, 2016.

[Signature]
GOVERNOR OF ALABAMA
ROBERT BENTLEY

CONSULTANT 2/15/95
REVISED 5/30/02
REVISED 6/16/11
REVISED 10/28/15

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.

When considering settlement of controversies arising from or related to the work covered by this AGREEMENT, the parties may agree to use 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 2016-076

BE IT RESOLVED, by the County Commission of Baldwin County, Alabama, that the County enter into an agreement with the State of Alabama; acting by and through the Alabama Department of Transportation for:

The intersection improvements at SR-3 (US-31) and Stagecoach Road (CR-72) in the City of Spanish Fort. Project #ST-002-003-010, BCP 02-058-16, CPMS Ref #100065257;

which agreement is before this Commission, and that the agreement be executed in the name of the County, by the Chairman of the Commission for and on its behalf and that it 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 of record by the County Administrator.

Passed, adopted, and approved this 17th day of May, 2016.

ATTESTED:

[Signature]
County Administrator

[Signature]
Chairman, County Commission

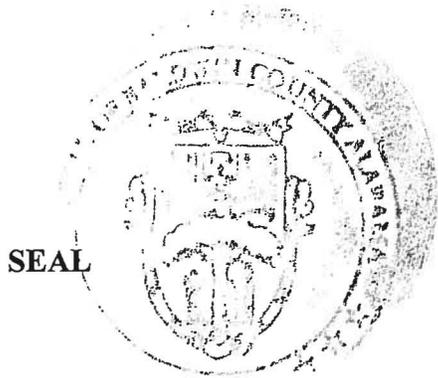
I, the undersigned qualified and acting clerk of Baldwin County, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the County Commission of the County named therein, at a regular meeting of such Commission held on the

17th day of May, 2016, and that such resolution is of record in the Minute Book of the County.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the County on this

17th day of May, 2016.

[Signature]
County Administrator



**STATE OF ALABAMA
DEPARTMENT OF TRANSPORTATION
GUIDELINES FOR OPERATION**

**SUBJECT: PROCEDURES FOR PROCESSING STATE AND INDUSTRIAL
ACCESS FUNDED COUNTY AND CITY PROJECTS**

No work can be performed and no contracts can be let prior to having a fully executed project agreement, submittal of project plans to Division and notification from the Division that advertisement for bids can be made, or, in the case of negotiated projects, work can begin.

A project agreement will be prepared and furnished to the County/City upon receipt of grant award letter signed by the Director or Governor. The Division will prepare and submit a F-7A Budget Allotment request upon receipt of a project funding agreement at the time it is submitted to the County/City for their execution.

The County/City will submit plans prepared and signed by a registered professional engineer showing work to be performed. Plans must match the project agreement description. It is not necessary for the Division to perform an in-depth review of plans. The County/City will submit a certification signed by a Registered Professional Engineer stating that the plans have been prepared so that all items included in the plans meet ALDOT specifications. The County/City will include a letter certifying that the County/City owns all right-of-way on which the project is to be constructed.

Upon receipt of the executed agreement, the executed F-7A, final plans from the County/City, and right-of-way certification, the Division may notify the County/City to proceed with advertising the project for letting or proceed with work in the case of a negotiated project.

For negotiated projects, the Division will prepare a cost estimate following normal estimating procedures; then reduce each computer generated unit cost by 10%. This will be the amount used by the County/City on their estimate for reimbursement. In the case where a County/City is using an in-place annual bid, the County will furnish the Division a copy of their bid and this bid price will be used for reimbursement.

Where the County/City is letting a contract locally, the County/City will furnish to the Division the three lowest bids with their recommendation for award. The Division will review the bids, and, if in order, advise the County/City to proceed with award of the contract to the lowest responsible bidder. The County's/City's estimate for reimbursement will be based on the bid prices concurred in by the State and supported with documentation that the contractor has been paid for work performed (copy of cancelled check).

A certification will be submitted with County/City final estimate stating that the project was constructed in accordance with final plans submitted to the State and with the specifications, supplemental specifications, and special provisions which were shown on the plans or with the State's latest specifications which were applicable at the time of plan approval.

The County/City will notify the Division when the project is complete and the Division will perform a final ride-through to determine whether the project was completed in substantial compliance with the original final plans. Final acceptance will be made by the Division with a copy of the letter furnished to the Bureau of County Transportation.

All required test reports, weight tickets, materials receipts, and other project documentation required by the specifications, applicable supplemental specifications, and special provisions will be retained by the County/City for a period of three (3) years following receipt of final payment and made available for audit by the State upon request. If an audit is performed and proper documentation is not available to verify quantities and compliance with specifications, the County/City will refund the project cost to the State or do whatever is necessary to correct the project at their cost.

All County/City Industrial Access or State funded projects let to contract by the State will follow normal project procedures and comply with all current plan processing requirements.

RECOMMENDED FOR APPROVAL: John A. Couson
BUREAU CHIEF/DIVISION ENGINEER

APPROVAL: Ray W. Bean
CHIEF ENGINEER

APPROVAL: [Signature] 2/14/01
TRANSPORTATION DIRECTOR DATE