



COUNTY COMMISSION

BALDWIN COUNTY
312 COURTHOUSE SQUARE, SUITE 12
BAY MINETTE, ALABAMA 36507
(251) 937-0264
FAX (251) 580-2500
www.baldwincountyal.gov

MEMBERS
DIST. 1. FRANK BUKT, JR.
2. ROBERT E (BOB) JAMES
3. J. TUCKER DORSEY
4. CHARLES F. GRUBER

July 2, 2013

The Honorable Dane Haygood
Mayor
City of Daphne
Post Office Box 400
Daphne, Alabama 36526

**RE: Alabama Transportation Rehabilitation and Improvement Program
(ATRIP) Project No. 02-209-11 - Intersection Improvements at County Road
64 and County Road 13 - Intergovernmental Service Agreement**

Dear Mayor Haygood:

The Baldwin County Commission, during its regularly scheduled meeting held on July 2, 2013, approved an *Intergovernmental Service Agreement* between the City of Daphne and Baldwin County for ATRIP Project No. 02-209-11 - Intersection Improvements at County Road 64 and County Road 13 in Daphne, Alabama. This *Agreement* shall become effective upon the date of full execution by both parties and terminate twenty-four (24) months later. Either party may terminate the *Agreement*, with or without cause, upon written notice to the other party. The *Agreement* will be deemed terminated, thirty (30) days after the notice is mailed by certified mail to the other party.

Enclosed is a **fully executed copy** of the *Intergovernmental Service Agreement* for your file.

If you have any questions or need further assistance, please do not hesitate to contact me at (251) 972-8502 or Cal Markert, County Engineer, at (251) 937-0371.

Sincerely,

TUCKER DORSEY, Chairman
Baldwin County Commission

THANKS, DANE - GOOD PROJECT

TD/met Item GA1

cc: Cal Markert

ENCLOSURE

INTERGOVERNMENTAL SERVICE AGREEMENT

This Intergovernmental Service Agreement ("Agreement") is entered into by and between the Baldwin County Commission (hereinafter "County") and the City of Daphne, Alabama (hereinafter "City"), as follows:

RECITALS

Whereas, County is the duly formed governing body in and for Baldwin County, Alabama, and City is an incorporated municipality of the State of Alabama; and

Whereas, County and City are authorized under Alabama law to control, manage, supervise, regulate, repair, maintain, and improve (hereinafter collectively "control") certain public roads inside their respective jurisdictions; and

Whereas, County and City acknowledge and agree County maintains County Road 64 east from County Road 13, and City maintains County Road 64 west from County Road 13, County Road 13 south from County Road 64 and County Road 13 north from County Road 64; and

Whereas, County has been approved by the Alabama Department of Transportation for an Alabama Transportation Rehabilitation and Improvement Program (ATRIP) grant that will help fund construction of a roundabout at the intersection of County Road 64 and County Road 13; and

Whereas, County has requested that the City assist the County in its efforts to fund the preliminary engineering and matching costs for the intersection at County Road 64 and County Road 13 ATRIP project; and

Whereas, City agrees in Fiscal Year 2013 to pay the County 50% of matching cost for preliminary engineering, and 50% of any overruns and/or unknowns associated with preliminary engineering. Preliminary estimates set matching cost at \$43,338.00 for the intersection improvements at the County Road 64 and County Road 13 ATRIP project; and

Whereas, City agrees in Fiscal Year 2014 to fund 50% of the matching construction cost, 50% of the construction engineering & inspection, utilities, and right-of-way acquisition cost, and 50% of any overruns during construction. Preliminary estimates set matching cost at \$335,839.00 for the intersection improvements at County Road 64 and County Road 13 ATRIP project; and

Whereas, City agrees to accept maintenance of County Road 64 from County Road 13 east to Alabama Highway 181 (approximately 1.00 miles); and

Whereas, County and City now wish to enter into this Agreement to provide for their joint cooperation to fund the preliminary engineering, matching costs and overruns for the intersection improvements at County Road 64 and County Road 13 ATRIP project.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the sufficiency of which being hereby acknowledged, County and City do hereby agree as follows:

1. **Recitals:** The recitals set out above are incorporated into this Agreement, as though the same were set out in full in this paragraph.

DAP

2. **Purpose:** The parties acknowledge and agree that the purpose of this Agreement is to fund the preliminary engineering, matching costs and overruns for the intersection improvements at County Road 64 and County Road 13 ATRIP project.
3. **City Remains Owner of Right-of-Way:** The City, at all times including during the effective term of this Agreement and thereafter, shall retain exclusive responsibility for and control over County Road 64. The County obtains no rights, responsibilities or control for the subject road and rights-of-way as a result of the duties and/or obligations contained anywhere herein either during or following the effective term of this Agreement.
4. **No Joint Ownership of Property:** The parties acknowledge and agree that they will not jointly acquire, own, or otherwise come into joint or common possession of any property as a result of or in relation to this Agreement.
5. **Financing and Budgeting:** Each party shall be responsible for financing the obligations undertaken by that party hereunder, and shall not be responsible for financing, or in any other manner contributing to the actual costs or expenses of the obligations undertaken by the other party unless expressly identified herein.
6. **Approval and Effective Date:** This Agreement shall become effective upon the date of full execution by both parties ("Effective Date").
7. **Term:** The term of this Agreement shall be for twenty-four (24) months from its Effective Date. This document may be amended only upon written approval by the Parties hereto, and any such amendment shall be approved by the same method by which this original Agreement has been approved by the Parties.
8. **Services to be Performed by County (the Project):**
 - A. Comply with all necessary local, State and Federal rules, regulations and laws applicable to this Agreement and the ATRIP grant.
 - B. Construct the improvements in accordance with the ATRIP grant.
9. **Services to be Performed by City:**
 - A. Assist the County by funding \$43,338.00 (50% of the matching costs) for preliminary engineering and 50% of any overruns and/or unknowns associated with preliminary engineering for the intersection improvements at County Road 64 and County Road 13 ATRIP project.
 - B. Upon approval of final Scope of Work, assist the County by funding \$335,839.00 (50% of the local sponsor required match) for construction, construction engineering and inspection, utilities, right-of-way acquisition cost and 50% of any overruns during construction for intersection improvements at County Road 64 and County Road 13 ATRIP project.
 - C. Accept maintenance of County Road 64 from County Road 13 east to Alabama Highway 181 (approximately 1.00 miles).
10. **Termination and Notice:** Notwithstanding the foregoing, either party may terminate this Agreement, with or without cause, upon written notice to the other party. A party's said notice shall be deemed effective, and the Agreement deemed terminated, thirty (30) days after

the date such notice is mailed by certified mail to the other party. In the event of termination by either party, the City shall be responsible for all actual costs incurred by the County through the date of receipt of the requisite termination notice. All notices provided for herein shall be sent as follows:

To City: City of Daphne
P.O. Box 400
Daphne, Alabama 36526

To County: Baldwin County Commission
312 Courthouse Square, Suite 12
Bay Minette, Alabama 36507

11. **Indemnity:** City accepts the improvements, work, property, product, funds and services of the County as a result of the Project in its "WHERE IS", "AS IS", condition and acknowledges that the County has made no representation or warranty to City as to, and has no obligation for the condition of the improvements, work, property, product, funds and services of the County. However, nothing contained herein shall prevent either party from good faith performance of the services to be performed under the terms of this agreement including without limitation the remediation or correction of any work or services performed by either party hereunder. City assumes the risk of any latent or patent defects or problems that are or may be contained in the improvements, work, property, product, funds and services of the County or City. City agrees that the County shall not be liable for any injury, loss or damage on account of any such defects or problems. City for itself and City Representatives waive and release the County from any claims for injury to persons or damage to the personal property by reason of the condition of the improvements, work, property, product, funds and services of the County or otherwise.

Furthermore, City shall defend, indemnify, and hold County harmless from and against all demands, actions, and claims of any description whatsoever, for property damage, personal injury (including death), actions in trespass, and all other claimed loss, injury or damage, including, but not limited to, attorneys' fees and costs, arising out of, relating to, or resulting from any and all acts or omissions in relation to the obligations hereunder.

The above provisions contained in this Section 11 shall not apply to any private contractor or subcontractor performing improvements or work on behalf of the County and, to the extent not exclusive of the County, the City shall be entitled to the benefit of all warranties, representations and legal or equitable rights available to it, or available to the County, under Alabama law or pursuant to the terms of all agreements between such private contractor or subcontractor and the County.

All guarantees, duties, representations, assurances, without limitation, contained within this Agreement shall survive and exist beyond the date of termination or expiration of this Agreement, and time, or the lapse thereof, shall not be used for, or argued as a defense for the City, against the same.

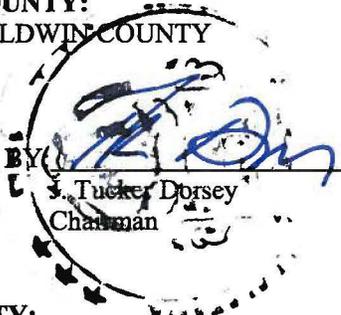
Nothing contained herein shall be construed to limit or modify the laws of Alabama as the same may apply to the County or City or in any way diminish any immunity, absolute or qualified, to which the County and City are otherwise entitled by law.

DAH

12. **Entire Agreement:** This Agreement represents the entire and integrated agreement between County and City and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by the parties.
13. **Both Parties Contributed Equally to the Agreement.** This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both County and City have contributed substantially and materially to the preparation of this Agreement.
14. **Failure to Strictly Enforce Performance:** The failure of either party to insist upon the strict performance of any of the terms, covenants, agreements and conditions of this Agreement shall not constitute a default or be construed as a waiver or relinquishment of the right of a party to thereafter enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect.
15. **Assignment:** Neither this Agreement nor any interest herein shall be assigned, transferred or otherwise encumbered without a prior written agreement providing for such assignment, transfer, or other encumbrance, signed by the parties.
16. **Choice of Law:** The parties acknowledge and agree that this Agreement shall in all respects be governed by the laws of the state of Alabama, including without limitation all issues relating to capacity, formation, interpretation, and available remedies, without regard to Alabama conflict of law principles.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of full execution below.

COUNTY:
BALDWIN COUNTY

BY:  /Date 7.2.13
Tucker Dorsey
Chairman

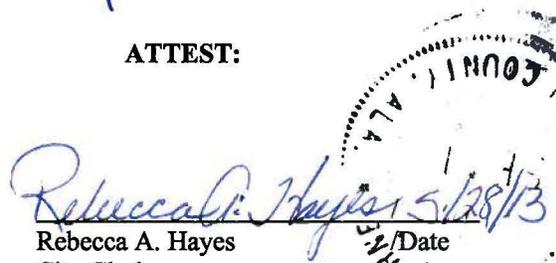
ATTEST:

 /Date 7-2-2013
David A. Z. Brewer
County Administrator

CITY:
THE CITY OF DAPHNE

BY:  /Date 5/28/13
Dane Haygood
Mayor

ATTEST:

 /Date 5/28/13
Rebecca A. Hayes
City Clerk



Dan

State of Alabama)
County of Baldwin)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that J. TUCKER DORSEY, as Chairman of the Baldwin County Commission, and DAVID A. Z. BREWER, County Administrator of the Baldwin County Commission, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, they, as such officers and with full authority, executed the same voluntarily for and as the act of said Baldwin County Commission.



Given under my hand and official seal, this the 2nd day of July, 2013.

Monica E. Taylor
Notary Public
My Commission Expires: _____

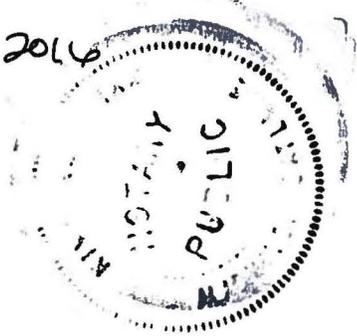
My Commission Expires 09/05/2016

State of Alabama)
County of Baldwin)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Dane Haygood, as Mayor of the City of Daphne, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of said City of Daphne.

Given under my hand and official seal, this the 28th day of May, 2013.

Kimberly Shaw
Notary Public
My Commission Expires: Sept. 12, 2016



DAY



COUNTY COMMISSION

BALDWIN COUNTY
312 Courthouse Square, Suite 12
BAY MINETTE, ALABAMA 36507
(251) 937-0264
Fax (251) 580-2500
www.baldwincountyal.gov

MEMBERS
DISTRICT 1. FRANK BURT, JR.
2. CHRIS ELLIOTT
3. J. TUCKER DORSEY
4. CHARLES F. GRUBER

November 4, 2014

The Honorable Dane Haygood
Mayor
City of Daphne
Post Office Box 400
Daphne, Alabama 36526

RE: Addendum to the Intergovernmental Service Agreement for the Alabama Transportation Rehabilitation and Improvement Program (ATRIP) County Road 64 and County Road 13 Intersection Improvement Project

Dear Mayor Haygood:

The Baldwin County Commission, during its regularly scheduled meeting held on November 4, 2014, approved an *Addendum to the Intergovernmental Service Agreement* approved at the July 2, 2013, Baldwin County Commission meeting between the City of Daphne and the Baldwin County Commission for the Alabama Transportation Rehabilitation and Improvement Program (ATRIP) County Road 64 and County Road 13 Intersection Improvement Project.

Please find enclosed a **fully executed copy** of the *Addendum* for your files.

If you have any questions or need further assistance, please do not hesitate to contact me at (251) 972-6833 or Cal Markert, County Engineer, at (251) 937-0371.

Sincerely,

CHARLES F. GRUBER, Chairman
Baldwin County Commission

CFG/met Item BF2

cc: Cal Markert
John Sedlack

ENCLOSURE

COUNTY OF BALDWIN
STATE OF ALABAMA

ADDENDUM TO INTERGOVERNMENTAL SERVICE AGREEMENT

This Addendum is made as of the last date written below between the City of Daphne, Alabama, an Alabama municipal corporation (the "City"), and the Baldwin County Commission, a political subdivision of the State of Alabama (the "County"), regarding their respective responsibility for maintaining County Road 64 and the Intersection at County Road 64 and County Road 13.

WITNESSETH

WHEREAS, City and County are parties to an agreement dated July 2, 2013, calling for improvements to be made to the Intersection at County Road 64 and County Road 13 to be paid for from ATRIP grant funds (the "Intergovernmental Service Agreement");

WHEREAS, the ATRIP grant agreement calls for the applicant, the County, to agree to maintain the Intersection at County Road 64 and County Road 13 following the completion of the project; and

WHEREAS, a portion of County Road 64 and County Road 13 is currently being maintained by the City as set forth in the Intergovernmental Service Agreement, and the Intergovernmental Service Agreement sets forth the agreements and obligations of the County and City regarding the present and future maintenance of the County Road 64 and the Intersection at County Road 64 and County Road 13;

NOW THEREFORE, the City and County agree that, notwithstanding anything contained in the ATRIP grant application or agreement, the City's and the County's relative rights, responsibilities, and duties concerning the future maintenance, repair, and responsibility for County Road 64 and the Intersection at County Road 64 and County Road 13 are as stated in the Intergovernmental Service Agreement which shall continue in full force and effect. Neither the City's nor the County's relative rights or responsibilities concerning present and future maintenance of County Road 64 and the Intersection at County Road 64 and County Road 13 are changed by the ATRIP grant agreement between the County and the State.

In witness whereof, the parties have set their hands and seals to this Addendum by their duly authorized representatives on the dates indicated below.

(SIGNATURE PAGES TO FOLLOW)

DAM

THE CITY OF DAPHNE

Dane Haygood

By: Dane Haygood

Its: Mayor

Date: October 28, 2014



BALDWIN COUNTY, ALABAMA

Charles F. Gruber
By: Charles F. Gruber

Its: Chairman

Date: 11/4/14

Attest:

David A. Z. Brewer
By: David A. Z. Brewer
Its: County Administrator



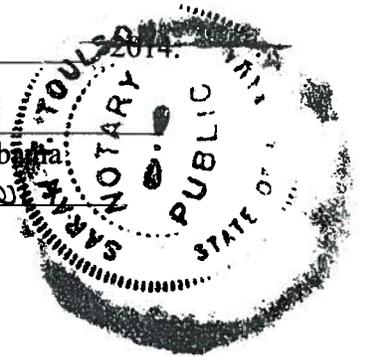
STATE OF ALABAMA

COUNTY OF BALDWIN

I, Sarah Towler, a Notary Public in and for said County in said State, hereby certify that DANE HAYGOOD, whose name as Mayor of THE CITY OF DAPHNE, and REBECCA A. HAYES, as City Clerk of THE CITY OF DAPHNE, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of such instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said city on the day the same bears date.

Given under my hand and official seal this 28th day of October, 2014.

Sarah Towler
Notary Public, Baldwin County, Alabama
My Commission Expires: 9-11-2014



STATE OF ALABAMA

COUNTY OF BALDWIN

I, Monica E. Taylor, a Notary Public in and for said County in said State, hereby certify that CHARLES F. GRUBER, whose name as Chairman of the Baldwin County Commission, and DAVID A. Z. BREWER, as County Administrator of the Baldwin County Commission, the governing body of BALDWIN COUNTY, ALABAMA, a political subdivision of the State of Alabama, are signed to the foregoing instrument and who are known to me, acknowledge before me on this day that, being informed of the contents of such instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said commission on the day the same bears date.

Given under my hand and official seal this 4th day of November, 2014.

Monica E. Taylor
Notary Public, Baldwin County, Alabama
My Commission Expires: _____

My Commission Expires 09/05/2016





COUNTY COMMISSION

BALDWIN COUNTY
312 Courthouse Square, Suite 12
BAY MINETTE, ALABAMA 36507
(251) 937-0264
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www.baldwincountyal.gov

MEMBERS
DISTRICT 1. FRANK BURT, JR.
2. CHRIS ELLIOTT
3. J. TUCKER DORSEY
4. CHARLES F. GRUBER

June 2, 2015

The Honorable Dane Haygood
Mayor
City of Daphne
Post Office Box 400
Daphne, Alabama 36526

RE: City of Daphne - Intergovernmental Service Agreement for the Alabama Transportation Rehabilitation and Improvement Program (ATRIP) County Road 64 and County Road 13 Intersection Improvement Project – Addendum #2

Dear Mayor Haygood:

The Baldwin County Commission, during its regularly scheduled meeting held on June 2, 2015, approved *Addendum #2* to the Intergovernmental Service Agreement (previously approved during the July 2, 2013, regular meeting of the Baldwin County Commission) between the City of Daphne and Baldwin County for the Alabama Transportation Rehabilitation and Improvement Program (ATRIP) County Road 64 and County Road 13 Intersection Improvement Project.

Enclosed is a **fully executed original** *Addendum #2* for your file.

If you have any questions or need further assistance, please do not hesitate to contact me at (251) 972-6833 or Cal Markert, County Engineer, at (251) 937-0371.

Sincerely,

CHARLES F. GRUBER, Chairman
Baldwin County Commission

CFG/met Item BF4

cc: Cal Markert
John Sedlack

ENCLOSURE

STATE OF ALABAMA
COUNTY OF BALDWIN

SECOND ADDENDUM TO INTERGOVERNMENTAL SERVICE AGREEMENT

This Second Addendum to Intergovernmental Service Agreement dated July 2, 2013, is made as of the last date written below between the City of Daphne, Alabama, an Alabama municipal corporation (the "City"), and the Baldwin County Commission, a political subdivision of the State of Alabama (the "County").

WITNESSETH

WHEREAS, City and County are parties to an agreement dated July 2, 2013, calling for improvements to be made to the Intersection at County Road 64 and County Road 13 to be paid for from ATRIP grant funds (the "Intergovernmental Service Agreement"); and

WHEREAS, Section 7. "Term", of the agreement states, "The term of this Agreement shall be for twenty-four (24) months from its Effective Date. This document may be amended only upon written approval by the Parties hereto, and any such amendment shall be approved by the same method by which this original Agreement has been approved by the Parties"; and

WHEREAS, due to delays in the project, the parties desire to amend the term of the Intergovernmental Service Agreement.

NOW, THEREFORE, the City and County agree that the aforementioned Intergovernmental Service Agreement is hereby amended as follows:

1. Section 7. Term, of the Intergovernmental Service Agreement shall be amended to read in its entirety as follows:

7. Term: The term of this Agreement shall be for thirty-six (36) months from its Effective Date. This document may be amended only upon written approval by the Parties hereto, and any such amendment shall be approved by the same method by which this original Agreement has been approved by the Parties.

2. Except as expressly amended in the first Addendum and this Second Addendum, all terms and conditions set forth in the Intergovernmental Service Agreement shall remain in full force and effect.

In witness whereof, the parties have set their hands and seals to this Addendum by their duly authorized representatives on the dates indicated below.

COUNTY:

ATTEST:

BALDWIN COUNTY COMMISSION

BY: Charles F. Gruber /Date 16-15-15
Charles F. Gruber /Date
Chairman

Ron Cink /Date 16-15-15
Ron Cink /Date
Interim County Administrator



CITY:
THE CITY OF DAPHNE

ATTEST:

BY: Dane Haygood /Date 16-09-15
Dane Haygood /Date
Mayor

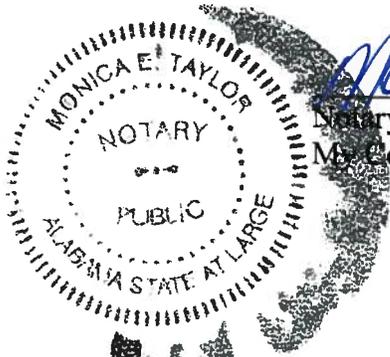
Rebecca Hayes /Date 16-09-15
Rebecca Hayes /Date
City Clerk



State of Alabama)
County of Baldwin)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that CHARLES F. GRUBER, whose name as Chairman of the BALDWIN COUNTY COMMISSION, and RON CINK, whose name as Interim County Administrator of the BALDWIN COUNTY COMMISSION, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, they, as such officers and with full authority, executed the same voluntarily for and as the act of said BALDWIN COUNTY COMMISSION.

Given under my hand and official seal, this the 15th day of June, 2015.



Monica E. Taylor
Notary Public, Baldwin County, Alabama
My Commission Expires: 09/05/2016

My Commission Expires 09/05/2016

State of Alabama)
County of Baldwin)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that DANE HAYGOOD, whose name as Mayor of THE CITY OF DAPHNE, and REBECCA A. HAYES, whose name as City Clerk of THE CITY OF DAPHNE, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, they, as such officers and with full authority, executed the same voluntarily for and as the act of said THE CITY OF DAPHNE.

Given under my hand and seal, this the 9 day of June, 2015.

Sandra Cushway

Notary Public, Baldwin County, Alabama

My Commission Expires: _____

My Commission Expires March 9, 2016