



COUNTY COMMISSION

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

MEMBERS
DIST 1. FRANK BURT, JR.
2. DAVID E. BISHOP
3. WAYNE A. GRUENLOH
4. CHARLES F. GRUBER

MICHAEL L. THOMPSON
COUNTY ADMINISTRATOR

December 15, 2009

Mr. Greg Mims
City of Fairhope
Post Office Drawer 429
Fairhope, Alabama 36533

RE: Intergovernmental Funding Agreement

Dear Mr. Mims:

The Baldwin County Commission, during its regularly scheduled meeting held on December 15, 2009, approved the *Intergovernmental Funding Agreement* between the City of Fairhope and the Baldwin County Commission for the purpose of the construction and the operation of a Baldwin Rural Area Transportation System (BRATS) transit hub facility on 1.61 acres (+/-), of which the County leased, located in the City of Fairhope and is owned by Eastern Shore Shopping Center, LLC. The amount associated with said *Agreement* will be \$24,000.00 per year with said funds to be reimbursed by the City of Fairhope per Fairhope Resolution #1545-09. The *Agreement* commences upon the date of full execution and extends for twenty (20) years plus three (3) five (5) year renewal options and is contingent upon the City of Fairhope's approval.

Enclosed is a **fully executed original** *Intergovernmental Funding Agreement*, for your file.

If you have any questions or need further assistance, please do not hesitate to contact me or Taylor Rider, BRATS Director, at (251) 972-8576.

Sincerely,

CHARLES F. GRUBER, Chairman
Baldwin County Commission

CFG/met Item H3

cc: Taylor Rider (Letter Only)
Chandra Middleton (Letter Only)
Scott Barnett (Letter Only)
Erich Bergdolt (Letter Only)
Kim Creech (Letter Only)
Kyle Baggett (Letter Only)

ENCLOSURE

INTERGOVERNMENTAL FUNDING AGREEMENT

Between the City of Fairhope and the Baldwin County Commission
(Re: County Property Lease for a Transit Hub in Fairhope)

This **Intergovernmental Funding Agreement** ("Agreement") is entered into by and between the Baldwin County Commission (a.k.a. "County") and the City of Fairhope, Alabama (a.k.a. "City"), as follows:

RECITALS

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

Whereas, the County currently operates the Baldwin Rural Area Transit System (a.k.a. "BRATS") throughout Baldwin County; and

Whereas, the County currently has no permanent location, within the City of Fairhope, to locate and operate a transit hub for the benefit of citizens in the area; and

Whereas, the City wishes to ensure that the citizens in the area have a permanent and adequate location in order to take advantage of available public transportation; and

Whereas, the Eastern Shore Shopping Center, LLC, which is the owner of certain real property located in the Municipality, has agreed to lease to the County approximately 1.61± acres, which is identified on *Exhibit A* hereto, for a term of the purposes of constructing and locating a BRATS transit hub station (the "Lease"); and

Whereas, the County and the City now deem it to be in the best interest of, and for the benefit of, the general public for the County and the City to enter into a joint contract to provide for adequate funding, lease of the subject property, and the construction and placement of a transit hub station within the City limits.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the sufficiency of which being hereby acknowledged, the County and the 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.
2. **Purpose.** The parties acknowledge and agree that the purpose of this Agreement is to supply the mechanism which will ensure that the City will provide the funding to

the County during the twenty (20) year (plus any renewal options) ground lease, which will be executed by and between the County and Eastern Shore Shopping Center, LLC, for the purposes of the County constructing and operating a transit hub station for the BRATS services at the subject property.

3. **Term.** The term of this Agreement shall begin immediately following the execution of the Lease, and the term of this Agreement shall be coexistent with, and subject to, the effectiveness and the duration of the Lease to include any allowable renewal periods.
4. **Payments.** The City shall timely remit advance payment on a monthly basis, on the first (1st) day of every month, in an amount of Two Thousand Dollars (\$2000.00) per month with a maximum of fifteen percent (15%) every five (5) years, with the first payment due following the date of full execution of the Lease. In the event that the Lease amount is increased according to the terms herein, then the County shall provide proper notice to the City of the subject increase, and the City shall remit the new payment accordingly upon such notice.
5. **Termination.** This Agreement shall be coexistent with the Lease. The Lease shall terminate only upon the termination and/or expiration of the Lease and remain in effect in all respects until such time.
6. **Notices.** All notices provided for herein shall be sent as follows:

To Town:	City of Fairhope Fairhope, Alabama 36580
To County:	Baldwin County Commission 312 Courthouse Square, Suite 12 Bay Minette, Alabama 36507
7. **Entire Agreement:** This Agreement represents the entire and integrated agreement between the County and the 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.
8. **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 the County and the City have contributed substantially and materially to the preparation of this Agreement.
9. **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.

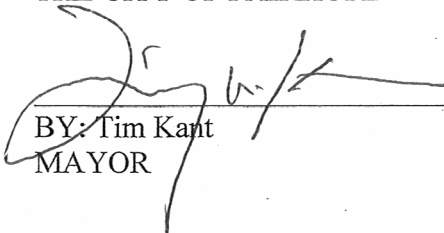
10. **Assignment:** Neither this Agreement nor any interest herein shall be assigned, transferred or otherwise encumbered without a prior written agreement providing for such assignment, transfer, or other encumbrance, signed by the parties.

11. **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.

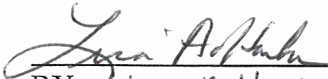
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of full execution below.

CITY:

THE CITY OF FAIRHOPE



BY: Tim Kant /Date
MAYOR

ATTEST:


BY: Lisa A. Hanks /Date
CITY CLERK

COUNTY:

BALDWIN COUNTY

BY:  /Date
Charles F. Gruber
Chairman

ATTEST:

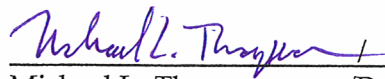
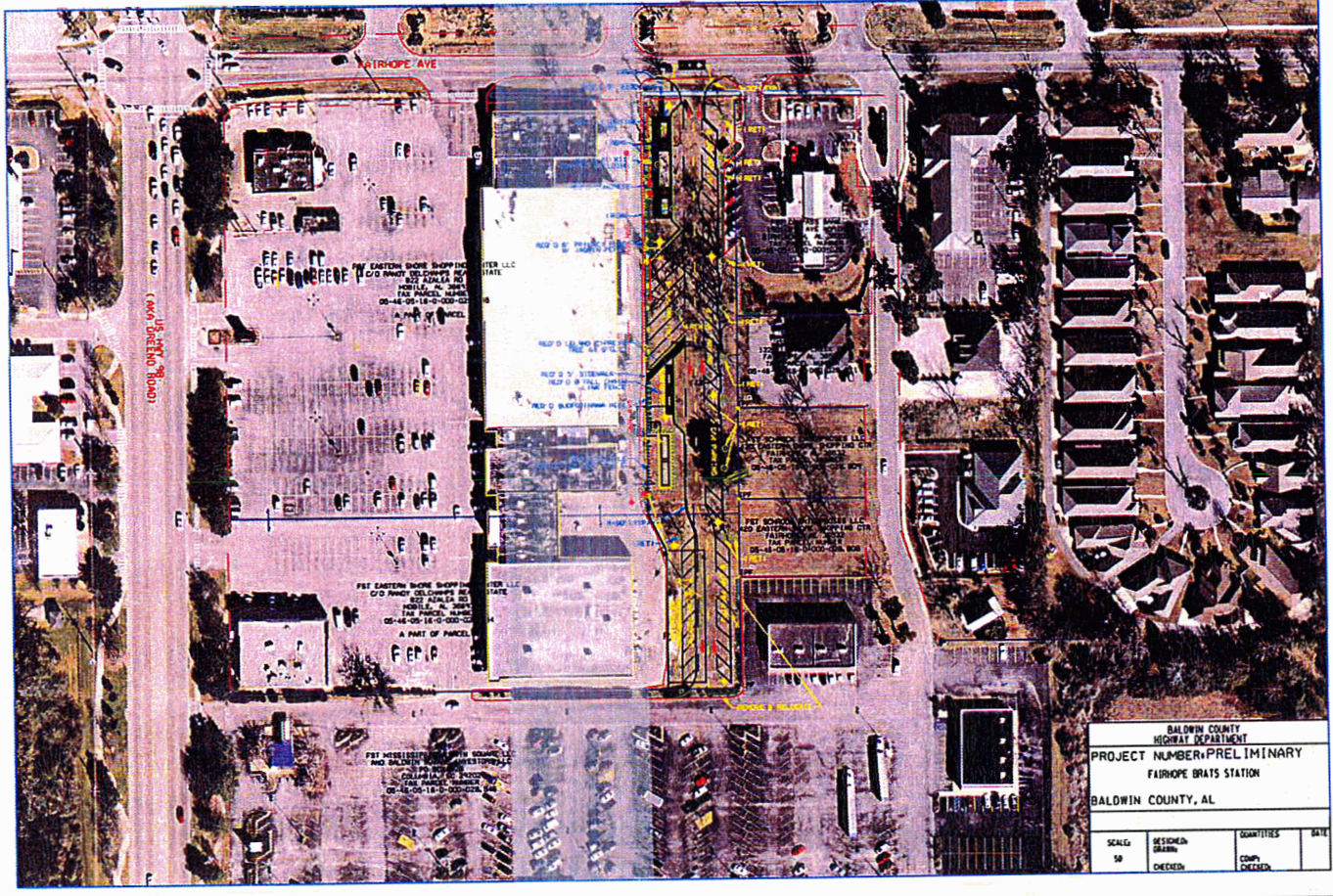
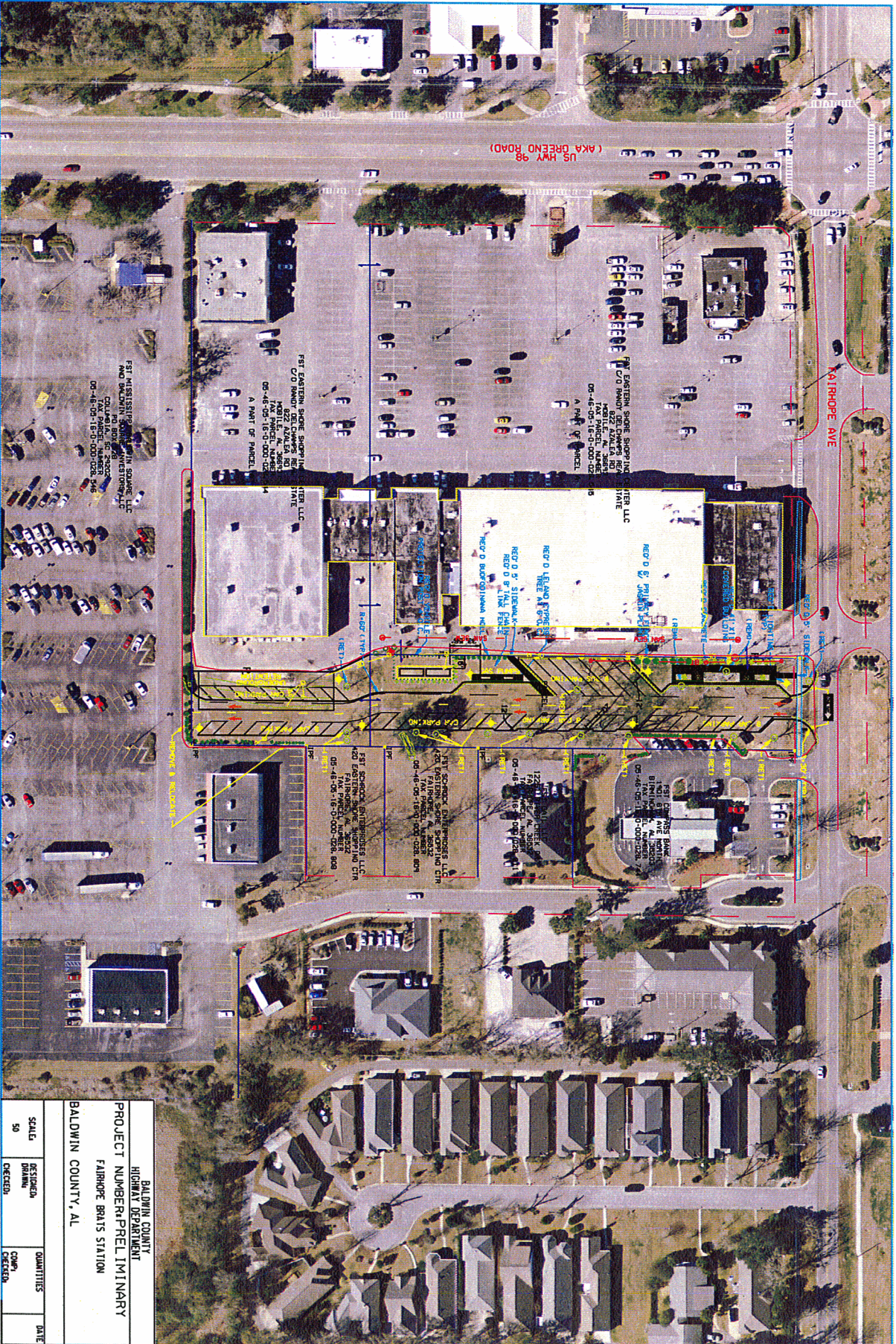

Michael L. Thompson /Date
Administrator

EXHIBIT "A"

SHEET NO.



BALDWIN COUNTY HIGHWAY DEPARTMENT			
PROJECT NUMBER: PRELIMINARY			
FAIRHOPE BRATS STATION			
BALDWIN COUNTY, AL			
SCALE:	DESIGNED BY:	QUANTITIES CHECKED:	DATE:
50	CHICKEN	COMPY	
	CHECKED:	CHECKED:	



SHEET NO.

BALDWIN COUNTY HIGHWAY DEPARTMENT			
PROJECT NUMBER: PREL IM1NARY			
FAIRHOPE BRAIS STATION			
BALDWIN COUNTY, AL			
SCALE	DESIGNED BY	QUANTITIES	DATE
50	CREATED	CHECKED	



COUNTY COMMISSION

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

2010
BALDWIN COUNTY
312 COURTHOUSE SQUARE
BAY MINETTE, ALABAMA 36507
(251) 937-0264
FAX (251) 580-2500

March 2, 2010

Mr. Greg Mims
City of Fairhope
Post Office Drawer 429
Fairhope, Alabama 36532

RE: Amendment to Intergovernmental Funding Agreement

Dear Mr. Mims:

The Baldwin County Commission, during its regularly scheduled meeting held on March 2, 2010, approved the *Amendment to Intergovernmental Funding Agreement* wherein the lease will be for a period of forty (40) years rather than a twenty (20) year lease with three (3) five (5) year renewal options.

The following is outlined in the *Amendment to Intergovernmental Funding Agreement*, "The *Agreement* shall begin immediately following the execution of the *Lease* and the term of this *Agreement* shall be coexistent with, and subject to, the effectiveness and the duration of the *Lease*", thus resulting in an effective beginning either on:

- a. the date on which the County receives an installment from the City; or
- b. the expiration of the Inspection Period (April 10, 2010) and expiring 40 years later

Enclosed is a **fully executed original** *Amendment to Intergovernmental Funding Agreement*, for your file.

If you have any questions or need further assistance, please do not hesitate to contact me or Taylor Rider, Baldwin Rural Area Transportation System Director, at (251) 972-8576.

Sincerely,

CHARLES F. GRUBER, Chairman
Baldwin County Commission

CFG/met Item EC1

cc: Taylor Rider (Letter Only)
Chandra Middleton (Letter Only)
Scott Barnett (Letter Only)
Erich Bergdolt (Letter Only)

ENCLOSURE

STATE OF ALABAMA)

COUNTY OF BALDWIN)

AMENDMENT TO
INTERGOVERNMENTAL FUNDING AGREEMENT

KNOW ALL MEN BY THESE PRESENTS that this Amendment to Intergovernmental Funding Agreement (hereinafter "Amendment") is made by and between the Baldwin County Commission, (hereinafter "County") and the City of Fairhope, Alabama, (hereinafter "City").

WITNESSETH:

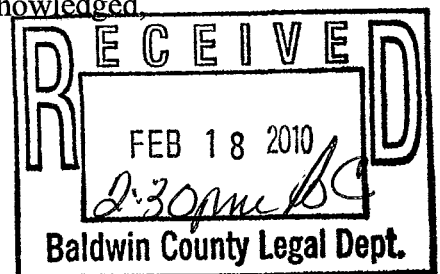
WHEREAS, County approved the Intergovernmental Funding Agreement between the County and the City of Fairhope for the purpose of funding the construction and the operation of a BRATS transit hub facility on 1.61 +- acres, of which the County leased, located in the City of Fairhope and owned by Eastern Shore Shopping Center, LLC; and

WHEREAS, to the satisfaction of both Parties, the Intergovernmental Funding Agreement was executed on the 15th day of December, 2009; and

WHEREAS, County and City have agreed to amend the number of years that funding will be provided to County for such transit hub facility; and

WHEREAS, County and City wish to amend the executed Intergovernmental Funding Agreement as provided below.

NOW THEREFORE, in consideration of the premises and the mutual covenants contained within this Amendment, the sufficiency of which is hereby acknowledged.



County and City do hereby amend the Intergovernmental Funding Agreement of December 15, 2009 as follows:

1. **RECITALS:**

The recitals stated above are incorporated by reference, as if fully set forth herein.

2. **AMENDED PROVISIONS:**

First Amended Provision

The provision of the original Intergovernmental Funding Agreement dated December 15, 2009 indentified as the "Purpose" is hereby amended to read as follows:

Purpose: The Parties acknowledge and agree that the purpose of this Agreement is to supply the mechanism which will ensure that the City will provide the funding to the County during the forty (40) year ground lease, which will be executed by and between the County and Eastern Shore Shopping Center, LLC, for the purposes of the County constructing and operating a transit hub station for the BRATS services at the subject property.

Second Amended Provision

The provision of the original Intergovernmental Funding Agreement dated December 15, 2009 indentified as the "Term" is hereby amended to read as follows:

Term. The term of this Agreement shall begin immediately following the execution of the Lease, and the term of this Agreement shall be coexistent with, and subject to, the effectiveness and the duration of the Lease.

3. **TERMS OF THE ORIGINAL AGREEMENT BROUGHT FORTH:** Any and all provisions contained within the Intergovernmental Funding Agreement dated December 15, 2009 currently in existence (as attached hereto) are hereby incorporated

herein by reference to the extent they are not altered or amended herein by this amendment. To the extent that any provision of the Intergovernmental Funding Agreement is altered, amended, or contradicted by this Amendment, the language and terms of this Amendment shall control.

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF YOU DO NOT UNDERSTAND THE LEGAL EFFECT OF ANY PART OF THIS CONTRACT, SEEK LEGAL ADVICE BEFORE SIGNING.

IN WITNESS WHEREOF, this Amendment has been executed by each of the Parties hereto and signed by an officer thereunto duly authorized and attested.

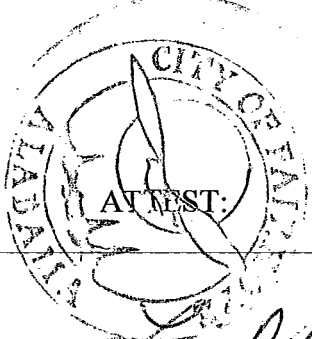
COUNTY:

ATTEST:

BALDWIN COUNTY, ALABAMA, a political subdivision of the State of Alabama

Michael L. Thompson 13/2/10
Michael L. Thompson Date
Administrator

BY: Charles F. Gruber 13/2/2010
Charles F. Gruber Date
Chairman



CITY:

THE CITY OF FAIRHOPE

Lisa A. Hanks /
Lisa A. Hanks Date
City Clerk

BY: Tim Kant /
Tim Kant Date
Mayor