K-15-2041

'15 SEP 22 AM 8:40

AGREEMENT – MPO (FA STP Funds)

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 [redacted] party of the second part (hereinafter called the COUNTY):

WITNESSETH

WHEREAS, the STATE and COUNTY desire to cooperate in the adaptive signal installation along SR-42 (US-98) (28 intersections). Project # STPOA-0042 ( ), BCP 02-061-15, CPMS Ref. #100064487.

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

A. The STATE will make the survey, complete the plans and furnish all preliminary engineering for the project with State forces without cost to this Project.

B. The STATE will furnish all construction engineering for the project with State forces. The cost of the construction engineering shall be included as part of the construction cost for the project.

C. The STATE will furnish the necessary inspection and testing of materials when needed as part of the cost of the project.

D. The STATE will not be liable for Federal Aid Funds in any amount. The project will be limited to $2, 141,200.00 Federal funds unless the Eastern Shore Area Metropolitan Planning Organization agrees, subject to the approval of the STATE, to reprogram the allocated Federal funds for the Eastern Shore Area sufficient to pay 80% of the project cost. Any deficiency in state funds, or overrun in construction costs will be borne by the county from county funds. In the event of an underrun in project costs, the amount of Federal Aid funds will be the amount stated below, or 80% of eligible project costs, whichever is less.

E. The estimated cost of construction of this project payable by the parties is the amount set forth below:

FA STP Funds (Eastern Shore Area Dedicated)	$ 2,141,200.00
State Public Road and Bridge Funds	535,300.00
TOTAL (Incl. E & I and Indirect Cost)	$ 2,676,500.00

F. The STATE will be responsible for advertisement and receipt of bids, and the award of the Contract. Following the receipt of bids and prior to the award of the Contract, the STATE will invoice the COUNTY for its prorata share of the estimated cost as reflected by the bid of the successful bidder plus E & I, and the COUNTY will pay this amount to the STATE no later than 30 days after the date bids are opened.

G. 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 the completion and acceptance of the project. Any invoices submitted after this six (6) month period will not be eligible for payment.

H. The COUNTY will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, Latest Edition, on this project and will ensure that alignment and grades on this project meet the standards of the Alabama Department of Transportation and the project will be built in accordance with the approved plans.

I. An audit report must be filed with the Department of Examiners of Public Accounts, upon receipt by the County, for any audit performed on this project in accordance with Act No. 94-414.

J. Each municipality is currently responsible for maintaining the signals within its jurisdiction. It will remain the responsibility of the individual municipalities to maintain the signals within its jurisdiction, including any improvements resulting from this project.

K. 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.

K. Exhibit M is attached hereto as a part hereof.

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

M. 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.

SEAL

ATTEST:

Clerk (Signature)

Ronald J. Cink
Type Name of Clerk

BALDWIN COUNTY, ALABAMA

BY: _____
(Signature) Chairman,
Baldwin County Commission

Charles F. Gruber
Type Name of Chairman

RECOMMENDED

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

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

Ronald L. Baldwin
Chief Engineer
Ronald L. Baldwin, P.E.

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

Jim R. Ippolito, Jr. (RP)
Chief Counsel, Jim Ippolito, Jr.,
Alabama Department of Transportation

John R. Cooper
Transportation Director
John R. Cooper

THE WITHIN AND FOREGOING AGREEMENT IS HEREBY APPROVED ON THE 30th **DAY OF** September **,20** 15 **.**

Robert Bentley
GOVERNOR OF ALABAMA
ROBERT BENTLEY

9/28/15

RESOLUTION NUMBER 2015-151

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 adaptive signal installation along SR-42 (US-98) (28 intersections). Project # STPOA-0042 ( ), BCP 02-061-15, CPMS Ref. #100064487;

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 Clerk 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 Clerk.

Passed, adopted, and approved this 15th day of September,

20 15.

ATTESTED:

Rachel L. Cik
County Clerk

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 15th day of September, 20 15, 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 15th day of September, 20 15.

Rachel L. Cik
County Clerk

SEAL

7/18/90

EXHIBIT M
CERTIFICATION

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.

Rev. 06/01/2012

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.

TERMINATION DUE TO INSUFFICIENT FUNDS:

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.

In the event of proration of the fund from which payment under this Agreement is to be made, Agreement will be subject to termination.

ADR CLAUSE:

For any and all disputes arising under the terms of this contract, the parties hereto agree, in compliance with the recommendation of the Governor and Attorney General, when considering settlement of such disputes, to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation by and through the Attorney General Office of Administrative Hearings or where appropriate, private mediators.

AMENDED ALABAMA IMMIGRATION LAW:

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.