

INTERGOVERNMENTAL SERVICE AGREEMENT

This Intergovernmental Service Agreement (“Agreement”) is entered into by and between the Baldwin County Commission (hereinafter “County”) and the Town of Magnolia Springs, Alabama (hereinafter “Town”), as follows:

RECITALS

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

Whereas, County and Town 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, with the consent of the Town Council of a municipality, the County may establish, construct, and maintain any road or street within the corporate limits of such municipality; and

Whereas, County and Town acknowledge and agree that Magnolia Springs Highway from Cedar Street to School Street, as identified and depicted on *Exhibit A* hereto, is situated inside the present incorporated municipal limits of Town, and is a section of road over which Town is responsible for and over which Town exercises control; and

Whereas, the Town has requested that the County assist the Town in its efforts to maintain Magnolia Springs Highway from Cedar Street to School Street inside Magnolia Springs Town Limits, and the County agrees to perform ditch cleaning, pursuant to the terms and conditions herein; and

Whereas, the County submitted an Estimate Sheet (*Exhibit B*) identifying an approximation (i.e. \$14,666.20) of the actual value for labor and equipment that the County has placed upon the services to perform ditch cleaning along Magnolia Springs Highway from Cedar Street to School Street; and

Whereas, the Town wishes for the County to perform the requested services even though the Estimate Sheet (*Exhibit B*) may or may not reflect the actual cost incurred by the County to perform said services on behalf of the Town; and

Whereas, the Town agrees to remit to the County any and all actual costs for labor and equipment incurred by County in its performance of this Agreement; and

Whereas, County and Town now wish to enter into this Agreement to provide ditch cleaning on Magnolia Springs Highway from Cedar Street to School Street which is inside the Town’s jurisdiction.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the sufficiency of which being hereby acknowledged, County and Town 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 provide for the ditching along Magnolia Springs Highway from Cedar Street to School Street inside the corporate limits of the Town.
3. **Town Remains Owner of Right-of-Way:** The Town, at all times, including during the effective term of this Agreement and beyond, shall retain exclusive responsibility for and control over Magnolia Springs Highway from Cedar Street to School Street specifically identified and depicted on *Exhibit A* hereto. The County, however, obtains no rights, responsibilities or control for the subject right-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. **Inapplicability to Roads Not Expressly Identified:** The parties acknowledge and agree that this Agreement does not address or affect, and that the parties do not intend by this Agreement to address or affect, the responsibility for or control of any road or road portion not expressly identified and depicted herein.
6. **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 costs or expenses of the obligations undertaken by the other party unless expressly identified herein.
7. **Approval and Effective Date:** This Agreement shall become effective upon the date of full execution by both parties (“Effective Date”).
8. **Term:** The term of this Agreement shall be for six (6) 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.
9. **Services to be Performed by County:**
 - A. Perform ditch cleaning of road when requested by Town.
 - B. Remit invoice to the Town for actual costs incurred.
Note: County cannot sell bid item materials to the Town.
10. **Services to be Performed by Town (the Project):**
 - A. Comply with all necessary local, State and Federal rules, regulations and laws applicable to the Project and this Agreement.
 - B. Furnish and/or acquire all necessary property rights, including without limitation any necessary access and ownership rights, for access to the right-of-way without cost or liability to the County.
 - C. Adjust and/or relocate all utilities for the project without cost to the County if applicable.
 - D. Promptly remit payment within 30 days of the receipt of invoice for all actual labor and equipment costs incurred by the County.

13. **Entire Agreement:** This Agreement represents the entire and integrated agreement between County and Town 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.

14. **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 Town have contributed substantially and materially to the preparation of this Agreement.

15. **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.

16. **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.

17. **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

_____/_____
CHARLES F. GRUBER / DATE
CHAIRMAN

ATTEST:

_____/_____
WAYNE DYESS / DATE
COUNTY ADMINISTRATOR

