

**AGREEMENT  
FOR CONSTRUCTION**

**BETWEEN THE STATE OF ALABAMA  
AND  
BALDWIN COUNTY, ALABAMA**

**Project: ST-002-059-029-CN  
Project Reference Number: 100070819  
Intersection Improvements & Road Work on AL 59 @ CR 71 &  
Signal Installation on AL 59 @ CR 28, in Baldwin County**

THIS AGREEMENT is made and entered into by and between the State of Alabama, acting by and through the Alabama Department of Transportation, hereinafter referred to as STATE; and Baldwin County, Alabama, hereinafter referred to as COUNTY; and

WHEREAS, the STATE and COUNTY desire to cooperate in a construction project for intersection improvements and road work on AL 59 @ County Road 71, and signal installation on AL 59 @ County Road 28, called Project (hereinafter, the "Project").

NOW, THEREFORE, the parties hereto, for, and in consideration of the premises stated herein do hereby mutually promise, stipulate, and agree as follows:

- (1) The STATE will perform, or have performed, all work associated with the intersection improvements and road work on AL 59 @ County Road 71, in Baldwin County, with no cost to the COUNTY. No plans will be required from the COUNTY for this portion of the Project. The estimated cost and participation by the STATE is \$105,058.83. It is understood that this is an estimate only, and in the event the final cost exceeds the estimate, the STATE will be responsible for 100 percent of overruns.
- (2) The signal installation and associated work on AL 59 @ County Road 28 will be financed on the basis of 50 percent COUNTY funds, and 50 percent STATE funds. The estimated cost and participation by the various parties is as follows:

Total Estimated <u>Cost</u>	Total Estimated <u>COUNTY Funds</u>	Total Estimated <u>STATE Funds</u>
\$209,402.64	\$104,701.32	\$104,701.32

It is understood that the above is an estimate only, and in the event the final cost exceeds the estimate, the COUNTY will be responsible for 100 percent of overruns.

- (3) The COUNTY will perform or have performed their portion of the work under this Agreement in accordance with the laws of Alabama and the plans. Completed original plans shall be furnished to the STATE in accordance with the guidelines for operations for procedures for processing State and industrial access funded County and City projects dated February 14, 2001. Said guidelines are attached hereto and made a part of this Agreement.
- (4) The COUNTY will invoice the STATE for 50 percent of the costs of work performed, as work progresses.
- (5) Invoices for work performed by the COUNTY under the terms of this Agreement will be submitted within twelve (12) months after the completion of the work. Any invoices submitted after this twelve-month period will not be eligible for payment.
- (6) Preliminary engineering for the signal installation and associated work on AL 59 @ CR 28 will be performed by or for the COUNTY at no cost to the STATE. Construction engineering and inspection for the signal installation and associated work on AL 59 @ CR 28 will be performed by or for the COUNTY as part of the Project cost.
- (7) The COUNTY will furnish all Right-of-Way for the signal installation and associated work on AL 59 @ CR 28 without cost to the STATE.
- (8) The COUNTY will construct, repair, adjust and/or relocate all utilities for the signal installation and associated work on AL 59 @ CR 28 without cost to the STATE.
- (9) The Southwest Region office of the Alabama Department of Transportation will be the lead agency for the STATE relative to the work under this Agreement and will be the point of contact for the COUNTY. The Southwest Region office of the Alabama Department of Transportation will also be responsible for approval and acceptance of the

completed Project.

- (10) The performance of the work covered by this Agreement will be in accordance with the current regulations and requirements of the STATE.
- (11) Upon completion of the Project, the COUNTY will assume full responsibility for maintenance of that part of the facility which is not a part of the State Maintenance System.
- (12) A final audit will be made of all Project records after the completion of the Project and a copy will be furnished to the Department of Examiners of Public Accounts, in accordance with Act 1994, 94-414. A final financial settlement will be made between the parties as reflected by the final audit and this Agreement.
- (13) Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (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 (1) claims, damages, losses, and expenses, including but not limited to attorney's fees arising out of, connected with, resulting from or related to the work performed by the COUNTY, or its officers, employees, contracts, agents, or assigns (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) and damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but not limited to attorney's fees, caused by the negligent, careless or unskillful acts of the COUNTY, its agents, servants, representatives or employees, or the misuse, misappropriation, or misexpenditure of any source of funding, compensation or reimbursement by the COUNTY, its agents, servants, representatives or employees, or anyone for whose acts the COUNTY may be liable.

- (14) 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.
- (15) 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.
- (16) The terms of this Agreement may be modified by supplemental agreement duly executed by the parties hereto.
- (17) This Agreement shall terminate on January 1, 2022, as to any work provided herein for which funding has not been authorized, unless otherwise terminated by either party upon the delivery of a thirty (30) day notice of termination. The COUNTY agrees that the STATE may unilaterally extend the time of the Agreement.
- (18) Nothing will be construed under the terms of this Agreement by the STATE or the COUNTY that will cause any conflict with Section 23-1-63, Code of Alabama (7/24th Law).
- (19) Exhibit N is attached and hereby made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto cause 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:

BALDWIN COUNTY

\_\_\_\_\_  
Commission Administrator (Signature)

BY: \_\_\_\_\_  
County Commission Chairman (Signature)

\_\_\_\_\_  
Type Name of Administrator

\_\_\_\_\_  
Type Name of Chairman

THIS AGREEMENT HAS BEEN LEGALLY REVIEWED AND  
APPROVED AS TO FORM AND CONTENT:

BY: \_\_\_\_\_  
Chief Counsel, William F. Patty

RECOMMENDED FOR APPROVAL:

\_\_\_\_\_  
Southwest Region Engineer  
Matthew Ericksen, P.E.

\_\_\_\_\_  
Maintenance Engineer  
Stacey N. Glass, P.E.

\_\_\_\_\_  
Deputy Director, Operations  
George H. Conner, P.E.

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

\_\_\_\_\_  
Transportation Director, John R. Cooper

The foregoing Agreement is hereby approved by the Governor of the State of  
Alabama this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
**GOVERNOR OF ALABAMA, KAY IVEY**

**RESOLUTION NUMBER 2020-027**

BE IT RESOLVED, by the County Commission of Baldwin County, Alabama as follows:

1. That Baldwin County enters into an Agreement with the State of Alabama, acting by and Alabama Department of Transportation for:

Construction program for Project ST-002-059-029-CN, Project Reference Number 100070819 for intersection improvements and road work on AL 59 @ County Road 71, and the signal installation on AL 59 @ County Road 28, in Baldwin County, Alabama; which Agreement is before this Council.

2. That the Agreement be executed in the name of the COUNTY, by its Chairman, for and on its behalf.
3. That the Agreement be attested by the Commission 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 on file by the Commission Administrator.

Passed, adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

ATTESTED:

\_\_\_\_\_  
Commission Administrator

\_\_\_\_\_  
Commission Chairman

I, the undersigned qualified and acting Administrator of Baldwin County, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution passed and adopted by the County Commission of Baldwin County named therein, at a regular meeting of such Commission held on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, and that such resolution is on file by the Commission Administrator.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the COUNTY on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Commission Administrator

## EXHIBIT N

CONSULTANT 2/15/95

**REVISED 5/30/02**

**REVISED 6/16/11**

**REVISED 10/28/15**

### **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 effort 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. If 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.