

## **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 Jessamine Street from Live Oak Avenue to McCoy Lane, 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 perform ditch cleaning and flushing of pipes along Jessamine Street from Live Oak Avenue to McCoy Lane inside Magnolia Springs Town Limits; and

**Whereas**, the County submitted an Estimate Sheet (*Exhibit B*) identifying an approximation (i.e. \$18,258.20) of the actual value for labor and equipment that the County has placed upon the services to perform ditch cleaning and flush pipes on both sides of Jessamine Street from Live Oak Avenue to McCoy Lane; 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 perform ditch cleaning and flush pipes on both sides of Jessamine Street from Live Oak Avenue to McCoy Lane 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 ditch cleaning and flush pipes on both sides of Jessamine Street from Live Oak Avenue to McCoy Lane 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 Jessamine Street from Live Oak Avenue to McCoy Lane specifically identified and depicted on *Exhibit A* hereto. The County shall obtain no rights, responsibilities or control over Jessamine Street from Live Oak Avenue to McCoy Lane as a result of this Agreement or the duties and/or obligations contained anywhere herein either during or following the effective term of this Agreement. Nothing contained herein shall be construed to require or result in the County assuming responsibility for any public streets inside the Town of Magnolia Springs corporate limits.
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 twelve (12) 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 and flush pipes of road when requested by Town.
  - B. Remit invoice to the Town for actual equipment and labor 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.



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

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**

\_\_\_\_\_  
BILLIE JO UNDERWOOD / DATE  
CHAIRMAN

ATTEST:

\_\_\_\_\_  
WAYNE DYESS / DATE  
COUNTY ADMINISTRATOR

