

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 the roads listed below, as identified and depicted on *Exhibit A* hereto, are situated inside the present incorporated municipal limits of Town, and are roads 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 installation of signs on Magnolia Springs Highway inside Magnolia Springs Town Limits; and

Whereas, the Town has requested that the County reduce the speed limit on Magnolia Springs Highway north of County Road 26 from 35 MPH to 30 MPH for consistency with the Town of Magnolia Springs; and

Whereas, the Town has requested that the County reduce the speed limit on Old Marlow Road south of US Highway 98 from 35 MPH to 25 MPH for consistency with the Town of Magnolia Springs; and

Whereas, the Town has requested that the County perform installation of signs on Magnolia Springs Highway and Old Marlow Road on County maintained portions of said roads; and

Whereas, the County submitted an Estimate Sheet (*Exhibit B*) identifying an approximation (i.e. \$1,119.52) of the actual value for material, labor and equipment that the County has placed upon the services to install signage on the roads listed above; 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 applicable actual costs for material, 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 signage on the roads listed above which are 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 signage installment on the above listed public roads and rights-of-way 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 the road portions specifically identified and depicted on *Exhibit A* hereto. The County shall obtain no rights, responsibilities or control over the road portions 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 Magnolia Springs Town 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 signage installation on above listed roads
 - B. Remit invoice to the Town for:
 1. All applicable actual material, labor and equipment costs incurred for County maintained roads; and
 2. All applicable actual labor and equipment costs incurred for Town maintained roads.**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.
- E. Provide any materials necessary for the work inside Town limits.

11. **Termination and Notice:** Notwithstanding the foregoing, either party may terminate this Agreement, with or without cause, upon written notice to the other party. A party's said notice shall be deemed effective, and the Agreement deemed terminated thirty (30) days after the date such notice is mailed by certified mail to the other party. In the event of termination by either party, the Town shall be responsible for all costs incurred by the County through the date of receipt of the requisite termination notice. All notices provided for herein shall be sent as follows:

To Town: Town of Magnolia Springs
Post Office Box 890
Magnolia Springs, Alabama 36555

To County: Baldwin County Commission
312 Courthouse Square, Suite 12
Bay Minette, Alabama 36507

12. **Indemnity:** Town accepts the improvement, work, property, product and services of the County as a result of the Project in its “WHERE IS”, “AS IS”, condition and acknowledges that the County has made no representation or warranty to Town as to, and has no obligation for the condition of the improvements, work, property, product and services of the County. Town assumes the risk of any latent or patent defects or problems that are or may be contained in the improvements, work, property, product and services of the County or Town. Town agrees that the County shall not be liable for any injury, loss or damage on account of any defects or problems. Town for itself and Town Representatives waive and release the County from any claims for injury to persons or damage to the personal property by reason of the condition of the improvements, work, property, product and services of the County or otherwise.

Furthermore, to the fullest extent allowed by law, Town shall defend, indemnify and hold County harmless from and against all demands, actions and claims of any description whatsoever, for property damage, personal injury (including death), actions in trespass and all other claimed loss, injury or damage, including, but not limited to, attorneys' fees and costs, arising out of, relating to, or resulting from, any and all acts or omissions in relation to the obligations hereunder.

All guarantees, duties, representations, assurances, without limitation, contained within this Agreement shall survive and exist beyond the date of termination or expiration of this

Agreement, and time, or the lapse thereof, shall not be used for or argued as a defense for the Town against the same.

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

_____/_____
JOE DAVIS, III / DATE
CHAIRMAN

ATTEST:

_____/_____
WAYNE DYESS / DATE
COUNTY ADMINISTRATOR

