

RESOLUTION NO. 98-124

RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE AN AGREEMENT BETWEEN ST. JOHNS COUNTY AND FLORIDA DEPARTMENT OF TRANSPORTATION FOR MAINTENANCE OF LANDSCAPING AND RIGHT-OF-WAY FOR PORTIONS OF SR A1A.

WHEREAS, the Board of County Commissioners in 1993 requested landscaping on SR A1A North from the southern extend of 4-lane roadway (Mile Post 2.401) to the Duval County line (Mile Post 7.151) using Federal funds available to the Florida Department of Transportation through the Transportation Enhancement Program; and

WHEREAS, the Board of County Commissioners has requested installation of right-of-way landscaping through the public hearing processes for the 4 laning of SR A1A South from Owens Avenue (Mile Post 9.782) to Sandpiper Boulevard (Mile Post 10.910); and

WHEREAS, the Florida Department of Transportation does not perform landscape maintenance within the State Road right-of-way; and

WHEREAS, it is in the best interest of both parties to have the landscaping and routine right-of-way maintenance activities performed by the same entity.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida that the County Administrator is authorized to execute the Agreement in substantially the form attached.

PASSED AND ADOPTED THIS 23 **day of** June, 1998.

**BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA**

By: Jim Bryant

ATTEST: CHERYL STRICKLAND, CLERK

By: Patricia DeGrande
Deputy Clerk

Contract No.: _____
Financial Project No.: _____
County: _____

AGREEMENT FOR MAINTENANCE

THIS AGREEMENT, by and between the STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, hereinafter called the "DEPARTMENT", a component Agency of the State of Florida, and ST JOHNS COUNTY, hereinafter called the "COUNTY", effective as of the date executed by the DEPARTMENT.

WITNESSETH:

WHEREAS, as part of its maintenance responsibilities for the STATE OF FLORIDA HIGHWAY SYSTEM, the DEPARTMENT has been maintaining the existing limits of the state highways identified in Attachment "A" and made a part hereof; and

WHEREAS, the COUNTY desires to maintain portions of the state roads identified in Attachment "A" in order to improve the aesthetic appearance of the COUNTY; and

WHEREAS, the entire lengths of the above-mentioned state highways are within or adjacent to the corporate limits of the COUNTY; and

WHEREAS, the COUNTY, by Resolution No. _____ dated _____, 19, __, attached hereto and made a part hereof, desires to enter into this Agreement and authorizes its officers to do so.

NOW THEREFORE, for and in consideration of the mutual benefits each to flow to the other, the parties covenant and agree as follows:

1. The COUNTY shall appoint a representative for the administration of this Agreement. The COUNTY representative will be the "contact" for the DEPARTMENT'S local Maintenance Engineer and/or his/her representative concerning all aspects of this Agreement, including communications with the public and/or political officials. The COUNTY shall be responsible for maintenance of all landscaped and/or turfed areas within DEPARTMENT right-of-way having limits identified in Attachment "A". The COUNTY shall be responsible for the maintenance of traffic during all operations covered by this Agreement, in accordance with Part VI of the Manual on Uniform Traffic Control Devices and the current Roadway and Bridge Design Standards and any other applicable standards. For the purpose of this Agreement, unless otherwise noted in Attachment "A", the locations to be maintained by the COUNTY shall be maintained to a minimum standard so as to meet the Maintenance Rating Program's (MRP) desired rating of 80. Should any item of maintenance fall below the desired rating, the COUNTY agrees to immediately concentrate efforts and to bring the deficient item up to a

minimum MRP rating of 80. The COUNTY will not be responsible for a below 80 rating if the cause and effect is not due to neglect by the COUNTY.

2. The COUNTY shall, within the right-of-ways identified in Attachment "A", accomplish the following during the term of this Agreement:
 - A. Routinely mow, cut and/or trim the grass or turf (includes total greenscape) in accordance with State of Florida "Guide for Roadside Mowing" (1990) and any amendments thereto.
 - B. Properly prune all plants which includes:
 - (1) Routinely trimming trees
 - (2) Routinely pruning such parts thereof which may present a visual or other safety hazard for those using or intending to use the right of way
 - C. Routinely remove dead, diseased or otherwise deteriorated plants.
 - D. Routinely keep litter removed from the right-of-way.
 - E. Routinely remove and dispose of all trimmings, roots, litter, etc. resulting from the activities described herein.
 - F. Routinely edge and sweep any excess grass from sidewalks, curbs and gutters.
 - G. Routinely sweep roadways, curbs and gutters, valley gutters, intersections and barrier wall gutters.
3. The COUNTY and the DEPARTMENT shall be responsible jointly for clean-up, removal and disposal of debris from DEPARTMENT right-of-ways described by Attachment "A", or subsequent amended limits mutually agreed to in writing by both parties, following a natural disaster (i.e. hurricane, tornadoes, etc.).
4. To the extent permitted by law, the COUNTY covenants and agrees that it will indemnify and hold harmless DEPARTMENT and all of DEPARTMENT's officers, agents and employees, from any claim, loss, damage, cost or charge of expense arising out of any act, action, neglect or omission by COUNTY during the performance of this Agreement, whether direct or indirect, and whether to any person or property to which DEPARTMENT or said parties may be subject, except that neither COUNTY nor any of its agents or contractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of DEPARTMENT or any of its officers, agents or employees.
5. If, at any time after the COUNTY has assumed the landscaping installation and/or maintenance responsibility above-mentioned, it shall come to the attention of the DEPARTMENT's District Secretary that the right-of-ways identified in Attachment "A" or a part thereof is not properly maintained pursuant to the terms of this Agreement, said District Secretary may at his option issue a written notice that a deficiency or deficiencies exist(s), by sending a certified letter to the COUNTY,

to place said COUNTY on notice thereof. Thereafter, the COUNTY shall have a period of thirty (30) calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time period, the DEPARTMENT may, at its option, proceed as follows:

- A. Undertake the correction of said deficiencies and maintain the subject right of ways as required by this Agreement, with DEPARTMENT or a contractor's personnel and equipment, and invoice the COUNTY for all reasonably incurred costs and expenses related thereto, all of which the COUNTY hereby agrees to pay immediately; and/or
- B. Terminate the COUNTY'S right to perform hereunder, and undertake with its own forces or the services of a contractor to complete required performance under this Agreement and recover from the COUNTY all of the DEPARTMENT'S reasonably incurred costs and expenses related to said completion; and/or
- C. As to any additional landscaping that may have been added to the subject right of ways, the DEPARTMENT may elect to remove same and to restore affected areas to their preexisting condition and invoice the COUNTY for the reasonable cost of such removal and restoration, all of which shall be immediately paid by the COUNTY; and/or
- D. The DEPARTMENT may offset all sums due it under this Agreement against any payments that may be due or come due to the COUNTY under this or other maintenance agreements with the DEPARTMENT. If said funds are not sufficient to reimburse the DEPARTMENT, the COUNTY shall pay any deficiency to the DEPARTMENT immediately upon invoicing.

6. It is understood between the parties that all areas and landscaping covered by this Agreement may be deleted, removed, relocated, or adjusted at any time in the future as found necessary by the DEPARTMENT in order that the adjacent state road be widened, altered or otherwise changed and maintained to meet the future criteria or planning of the DEPARTMENT, in which event the payments provided for in paragraph 7 shall be subject to adjustment.

7. The DEPARTMENT agrees to pay to the COUNTY quarterly (each three month period following a notice to proceed) compensation for the cost of maintenance as described under items (2) A through (2) G of this Agreement. The lump sum payment will be in the amount of \$ 11,565 per quarter for a total sum of \$ 46,260 per year. In the event this Agreement is terminated as established by items five (5) or eight (8) herein, payment will be prorated for the quarter in which termination occurs.

8. This Agreement or part thereof is subject to termination under any one of the following conditions:
- A. In the event the DEPARTMENT exercises the option identified in items five (5) and fifteen (15) of this Agreement.
 - B. Upon thirty (30) days written notice and upon mutual agreement of the parties.

9. The initial term of this Agreement shall be for a period of one (1) year, commencing on the date a

written notice to proceed is issued to the COUNTY by the DEPARTMENT'S District Maintenance Engineer. It is understood that, at the end of the initial one year period, this Agreement may be renewed for no more than two (2) one (1) year renewal periods. Renewals shall be made at the discretion of the DEPARTMENT and agreed to in writing by the COUNTY.

10. In the event this Agreement extends beyond the DEPARTMENT'S current fiscal year, the COUNTY and DEPARTMENT mutually agree that performance and payment during subsequent fiscal periods is contingent upon funds being appropriated, allocated, or otherwise made available by the legislature.

Therefore, Section 339.135(6)(a), Florida Statutes (1995), is applicable to this Agreement which states as follows: - The DEPARTMENT, during any fiscal year, may not expend money, incur any liability, or enter into any contract which, by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection shall be null and void, and no money shall be paid thereon. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for a period exceeding one (1) year, but any contract so made shall be executory only for the succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT in excess of \$25,000.00 and having a term for a period of more than one (1) year.

11. The COUNTY shall not have authority to add any landscaping to any of the DEPARTMENT'S right-of-ways without first making written application to the DEPARTMENT and receiving written approval from the DEPARTMENT pursuant to the terms of this paragraph 11. All requests and approvals shall be deemed to have been made and given in agreement with and subject to the conditions set forth below:
 - A. Plans for any new landscaping shall be subject to prior written approval by the DEPARTMENT'S local Maintenance Engineer. The COUNTY shall not change or deviate from said approved plans without prior written approval from the Maintenance Engineer.
 - B. All landscaping shall be developed and implemented in accordance with appropriate state safety and road design standards.
 - C. The COUNTY agrees to complete, execute and comply with all applicable joint application, insurance forms and permitting requirements of the DEPARTMENT related to construction and maintenance of additional landscaping on the DEPARTMENT'S right-of-ways.
 - D. The COUNTY agrees that it shall not be entitled to receive nor shall the DEPARTMENT be required to pay any additional payments due to any additional landscaping that may be added pursuant to this provision, including, but not limited to, any increase in the cost incurred by the COUNTY to install, maintain, or remove the added landscaping during the term of this

Agreement, and any renewal thereof, and/or subsequent to this Agreement's termination for any reason.

- E. The COUNTY agrees to be solely responsible for the installation, continuing maintenance and/or any removal and or restoration of any approved additional landscaping, without cost to the DEPARTMENT, pursuant to the requirements and standards established by this Agreement, during the term of this Agreement and as it may be later renewed and for such additional period, upon the expiration or termination of this Agreement, as said additional landscaping remains on the DEPARTMENT'S right-of-way. This Agreement being deemed to survive its expiration and/or termination as to any additional landscaping added pursuant to this paragraph 11.

- 12. This writing embodies the entire Agreement and understanding between the parties hereto and there are no other prior agreements or understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby.

- 13. This Agreement is nontransferable and nonassignable in whole or in part without the written consent of the DEPARTMENT.

- 14. This Agreement, shall be governed by, and construed according to the laws of the State of Florida.

- 15. Contractual Services - In the event this contract is for a contractual service as defined by Section 287.012, Florida Statutes (1996), the following provisions shall also apply:
 - A. Pursuant to the requirements of Section 287.058, Florida Statutes (1996):
 - (1) The Contractor shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Contractor in conjunction with this contract. Failure by the Contractor to grant such public access shall be grounds for immediate cancellation of this contract by the Department.
 - (2) Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof, and bills for travel expenses specifically authorized by this contract shall be submitted and paid in accordance with the rates specified in Section 112.061, Florida Statutes.
 - B. Pursuant to the requirements of Section 287.133(3)(a) and (2)(a), Florida Statutes (1996):
A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier,

subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes (1996), for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

16. A Vendor Ombudsman has been established with the Department of Banking and Finance. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (904)488-2924 or by calling the State Comptroller's Hotline, 1-800-848-3792.

IN WITNESS WHEREOF the parties hereto have caused these presents to be executed as of the Executed/Agreement Effective Date stated below.

ST. JOHNS COUNTY
BOARD OF COUNTY COMMISSIONERS

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____

By: _____

District Secretary

Title: _____

ATTEST: _____ (SEAL)

Executive Secretary

ATTEST: _____ (SEAL)

CLERK

Executed/Agreement Effective

Date _____

FOR DEPARTMENT USE ONLY

APPROVED AS TO FORM AND LEGALITY:

Attorney, Department of Transportation

DATE

ATTACHMENT "A"

**ST. JOHNS COUNTY
MAINTENANCE LOCATIONS**

<u>STATE ROAD NUMBER</u>	<u>LIMITS</u>
A1A South	FROM South of Owens Ave. (M.P. 9.718) TO Sandpiper Blvd. (M.P. 10.910)
A1A North	FROM Beginning of 4 Lane (M.P. 2.401) TO Duval County Line (M.P. 7.151)