

RESOLUTION No.2001 - 109

**A RESOLUTION BY THE ST JOHNS COUNTY BOARD OF
COUNTY COMMISSIONERS OF THE STATE OF FLORIDA,
AUTHORIZING EXECUTION OF A LOCAL AGENCY
AGREEMENT AND PROVIDING WHEN THIS RESOLUTION
WILL TAKE EFFECT**

WHEREAS, the State of a Florida Department of Transportation and St. Johns County desire to facilitate the "Scenic and Historic A1A" Corridor Management Plan and,

WHEREAS, The State of Florida has requested that St. Johns County, Florida, to execute and deliver to the State of Florida Department of Transportation a Local Agency Agreement of the aforementioned project.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida that Ben Adams, County Administrator is hereby authorized to make, execute and deliver to the State of Florida Department of Transportation a Local Agency Agreement for the aforementioned project.

DONE AND RESOLVED this 22nd day of May, 2001

BOARD OF COUNTY COMMISSIONER OF ST JOHNS COUNTY,
FLORIDA

By: Mary E. Kohnke
Mary E. Kohnke, Chair

ATTEST: Cheryl Strickland, Clerk

By: Joanne King
Deputy Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
REIMBURSEMENT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, _____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter referred to as the "Department", and the ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS, hereinafter referred to as the "Agency".

WITNESSETH:

WHEREAS, the Agency has the authority to enter into said Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under Section 334.044, Florida Statutes, to enter into this Agreement; and

WHEREAS, the Agency, by Resolution No. 2001-107, a copy of which is attached hereto as Exhibit "B", and made a part hereof, has authorized its officers to execute this Agreement on its behalf; and

WHEREAS, the Department is authorized to contract with local governmental entities to the maximum extent possible for performance of its transportation responsibilities; and

WHEREAS, the parties mutually agree that it is in their joint best interest to facilitate the transportation project known as the development of a Corridor Management Plan for the "Scenic and Historic A1A" from the Flagler County Line to the Duval County Line in St. Johns County, Florida, hereinafter referred to as the "Project", and more specifically described in Exhibit "A".

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

1. The purpose of this Agreement is to facilitate the development of a Corridor Management Plan for the "Scenic and Historic A1A" from the Flagler County Line to the Duval County Line in St. Johns County, Florida. The Department has determined that this Project is in the best interests of the Department. Said Project is further described in Exhibit "A", attached hereto and by this reference made a part hereof. The further purpose of this Agreement is to provide Departmental financial reimbursement to the Agency, state the terms and conditions upon which such reimbursement will be provided and the understandings as to the manner in which the Project will be undertaken and completed.

2. The Agency shall commence, and complete the Project as described in Exhibit "A" with all practical dispatch, in a sound, economical and efficient manner, and in accordance with the provisions herein, and all applicable laws.

3. In the event that any election, referendum, approval, permit, notice, or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the Project hereunder, or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

4. The Agency shall initiate and prosecute to completion all proceedings necessary to enable the Agency to provide the necessary funds for completion of the Project.

5. The Agency shall submit to the Department such data, reports, records, contracts and other documents relating to the Project as the Department may require.

6. The total Department funds available for this project shall not exceed \$25,000. The Agency agrees to bear all expenses in excess of the \$25,000 and any deficits involved.

7. The Department agrees to a maximum participation in the Project in the amount of \$25,000. The Agency will invoice the Department providing a detailed accounting of expenses and any product support charges. 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. Any work performed prior to the Agency receiving a **Notice to Proceed** from the Department is not eligible for reimbursement.

8. Recipients of federal and state funds are to have audits done annually using the following criteria:

Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency. State awards will be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the awarding state agency.

In the event that a recipient expends \$300,000 or more in federal awards in its fiscal year, the recipient must have a single or program specific audit conducted in accordance with the **United States Office of Management and Budget (OMB) Circular A-133**.

If a recipient expends less than \$300,000 in federal awards during its fiscal year, an audit conducted in accordance with the **OMB Circular A-133** is not required. If a recipient expends less than \$300,000 in federal awards during its fiscal year and elects to have an audit conducted in accordance with **OMB Circular A-133**, the cost of the audit must be paid from non-federal funds.

In the event that a recipient expends \$300,000 or more in state awards during its fiscal year, the recipient must have a state single or program specific audit conducted in accordance with **Section 216.3491, Florida Statutes, and Chapter 10.600, Rules of the Auditor General**.

If a recipient expends less than \$300,000 in state awards during its fiscal year, an audit conducted in accordance with **Section 216.3491, Florida Statutes, and Chapter 10.600, Rules of the Auditor General** is not required. If a recipient expends less than \$300,000 in state awards during its fiscal year and elects to have an audit conducted in accordance with **Section 216.3491, Florida Statutes, and Chapter 10.600, Rules of the Auditor General**, the cost of the audit must be paid from non-state funds.

Reporting Packages and management letters generated from audits conducted in accordance with **OMB Circular A-133** and Financial Reporting Packages generated in accordance with **Section 216.3491, Florida Statutes, and Chapter 10.600, Rules of the Auditor General** shall be submitted to the awarding FDOT office, by the recipient, within 30 days of receiving it. The aforementioned items are to be received by the appropriate FDOT office no later than 9 months after the end of the recipient's fiscal year.

The recipient shall follow up and take corrective action on audit findings. Preparation of a summary schedule of prior year audit findings, including corrective action and current status of the audit finding is required. Current year audit findings require corrective action and status of finding.

Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the FDOT, the Comptroller, and the Office of the Auditor General.

The recipient shall submit required audit documentation as follows:

A Reporting Package and Data Collection Form for each audit conducted in accordance with **OMB Circular A-133** shall be sent to:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jefferson, IN 47132

A Financial Reporting Package of audits conducted in accordance with **Section 216.3491, Florida Statutes, and Chapter 10.600, Rules of the Auditor General** shall be sent to:

State of Florida Auditor General
ATTN: Ted. J. Sauerbeck
Room 574, Claude Pepper Building
111 West Madison Street
Tallahassee, FL 32303-1450

9. Agencies providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services, unless the Agreement specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Banking and Finance. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

10. If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

11. A Vendor Ombudsman has been established within the Department of Banking and Finance. The duties of this individual include acting as an advocate for contractor/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the State Comptroller's Hotline, 1-800-848-3792.

12. 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, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

13. Upon final payment to the contractor for the entire Project, the Agency shall, within one hundred eighty (180) days, furnish the Department with two (2) copies of its final and complete billing of all cost incurred in connection with the work performed hereunder, such statement to follow as closely as possible the order of items contained in the job estimate. The final billing shall show the description and site of the Project; the date on which the first work was performed or the date on which the earliest items of billed expense was incurred; the date on which the last work was performed or the last item of billed expense was incurred; and the location where records and accounts billed can be audited. Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for three (3) years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred includes the Agency's general accounting records and the project records, together with supporting documents and records, or the contractor and all subcontractors performing work on the Project, and all other records of the contractor and subcontractors considered necessary by the Department for a proper audit of costs.

14. The parties recognize and accept the funding restrictions set forth in Section 339.135(6)(a), Florida Statutes, which may affect the Department's obligations hereunder:

"(a) The department, during any fiscal year, shall 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 hereon. 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 shall prevent the making of contracts for a period exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and having a term for a period of more than 1 year."

15. If the Agency abandons or, before completion, discontinues the Project, or for any other reason, the commencement, prosecution, or timely completion of the Project by the Agency is rendered improbable, infeasible, impossible, or illegal, the Department will, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected, or the Department may terminate any or all of its obligations under this Agreement.

16. Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract with any third party with respect to the Project or obligate itself in any manner requiring the disbursement of Department funds without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any contractor and to approve or disapprove the employment of the same.

17. The Department reserves the right to unilaterally cancel this Agreement for refusal by the contractor or Agency to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes and made or received in conjunction with this Agreement.

18. The Agency shall make the construction site available to the Department for inspection and shall require its consultants to permit the Department's authorized representatives to inspect all work, payrolls, records, and to audit the books, records and accounts pertaining to the financing, development and construction of the Project.

19. Execution of this Reimbursement Agreement constitutes a certification by the Agency that the Project will be carried out in conformance with all applicable environmental regulations including the securing of any applicable permits. The Agency will be solely responsible for any liability in the event of non-compliance with applicable environmental regulations, including the securing of any applicable permits, and will reimburse the Department for any loss incurred in connections therewith.

20. To the extent permitted by law, the Agency shall indemnify, defend, save, and hold harmless the Department and all its officers, agents and employees from any claim, loss damage, cost, charge or expense arising out of any act, error, omission, or negligent act by the Agency, its officers, agents, or employees during the performance of the Agreement, except that neither the Agency, its officers, agents or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

The parties agree that this clause shall not waive the benefits or provisions of Chapter 768.28, Florida Statutes, or any similar provision of law.

When the Department receives a notice of claim for damages that may have been caused by the Agency in the performance of services required under this Agreement, the Department will immediately forward the claim to the Agency. The Agency and the Department will evaluate the claim and report their findings to each other within 14 working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the Agency in the defense of the claim or to require the Agency defend the Department in such claim as described in this section. The Department's failure to promptly notify the Agency of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by the Agency. The Department and the Agency will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all expenses at trial.

21. Nothing herein shall be construed to create any third party beneficiary rights in any person not a party to this Agreement.

22. This Agreement shall commence on the date above written and remain in effect and binding on the parties until cancellation, or performance of the parties' obligations hereunder. Any amendment to or modification of this Agreement shall be in writing and signed by both parties. No assignment shall be effected until prior written consent has been given by the Department, which consent shall not be unreasonably withheld.

23. If any provision of the Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of the applicable law.

24. The Agency warrants that it has not employed or obtained any company or person, other than bona fide employees of the Agency to solicit or secure this Agreement, and it has not paid or agreed to pay any company, corporation, individual, or firm, other than a bona fide employee employed by the Agency. For breach or violation of this provision, the Department shall have the right to terminate the Agreement without liability.

25. This Agreement shall be governed and construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

DATE FUNDING APPROVED BY
COMPTROLLER

(See attached Encumbrance Form)

ST. JOHNS COUNTY
BOARD OF COUNTY COMMISSIONERS

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____

BY: _____

TITLE: _____

District Secretary
District Two

DATE: _____

DATE: _____

ATTEST: _____ (SEAL)

ATTEST: _____ (SEAL)

TITLE: _____

Executive Secretary

~~APPROVED AS TO FORM~~

APPROVED AS TO FORM, LEGALITY

~~Attorney~~

Office of District Two General Counsel

EXHIBIT "A"
PROJECT DESCRIPTION AND RESPONSIBILITIES

This exhibit forms an integral part of that certain Reimbursement Agreement between the State of Florida Department of Transportation and the St. Johns County Board of County Commissioners, dated _____.

PROJECT LOCATION:

The project limits are from the Flagler County Line to the Duval County Line, throughout St. Johns County, Florida.

PROJECT DESCRIPTION:

The project consists of developing a Corridor Management Plan for the "Scenic and Historic A1A".

EXHIBIT "B"