

RESOLUTION NO. 2008-44

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY FLORIDA, APPROVING THE TERMS OF A MAINTENANCE AGREEMENT FOR THE CONSTRUCTION AND MAINTENANCE OF THE NOCATEE FLYOVER PROJECT TO BE COMPLETED BY THE TOLOMATO COMMUNITY DEVELOPMENT DISTRICT THROUGH ST. JOHNS COUNTY.

WHEREAS, Tolomato Community Development District is the owner of the Nocatee Flyover Project under development as part of the Nocatee Development of Regional Impacts; will convey the proposed right of way within the project limits to the Florida Department of Transportation for State ROW and St. Johns County, Florida for County ROW,

WHEREAS, both Parties want to enter into agreement as delineated in the attached Document ("Nocatee MOA.pdf");

WHEREAS, the County Agrees to Maintain the Facility to FDOT Design Standards per the FDOT Agreements;

WHEREAS, the County and the Tolomato CDD Agree that Tolomato CDD and Nocatee DRI provisions, requirements and agreements for construction and maintenance are applicable to this project.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA AS FOLLOWS:

Section 1: The above recitals as hereby incorporated into the body of this Resolution and adopted as findings of fact.

Section 2: The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of the Maintenance Agreement between the Florida Department of Transportation and St. Johns County, Florida, and authorizing the County Administrator to execute the Agreement on behalf of the County.

Section 3: The Clerk of Circuit Court is instructed to file the Agreement in the public records of St. Johns County, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 19 day of February, 2008.

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

Attest:

Pam Halter
Deputy Clerk

By:

Thomas G. Manuel
Thomas G. Manuel, Chair

Effective Date: 2/19/08

RENDITION DATE 2/22/08

MAINTENANCE AGREEMENT

This AGREEMENT ("Agreement"), made and entered into this ____ day of _____, 200__, between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION ("FDOT") and ST. JOHNS COUNTY ("SJC"), whose address for purposes of receiving legal notice is 4020 Lewis Speedway, St. Augustine, FL 32084, provides as follows:

1. WHEREAS, SJC has requested permission to:

- construct and maintain a project to be known as the Nocatee Flyover,
- maintain the off-ramp (i.e. STA 88+40) that leads to the bridge approach slab (i.e. STA 98+18). This includes all maintenance items such as pavement, striping, raised pavement markers (RPMs), sweeping, crash cushion, mechanical stabilizing earth (MSE) wall, slope pavement, guardrail, etc. Maintain the guardrail that extends north of the ramp limits by approximately 500' (US 1 STA 1020+00). Maintain all landscaping and/or lighting.,

which is located upon real property owned by FDOT;

and more particularly described in plans, which is attached as Exhibit "A" and

2. WHEREAS, FDOT is amenable to granting permission to SJC to undertake the duties and responsibilities set forth in this Agreement,

3. THEREFORE, for good and valuable consideration given, the parties mutually agree as follows:

MAINTENANCE

I. SJC shall:

- a. Maintain the improvements set forth in paragraph (1) above in conformance with all applicable FDOT standards and requirements of state and local government, including the Water Management District.
- b. Notify FDOT's Local Maintenance Engineer at least forty-eight (48) hours prior to commencing any type of non-routine maintenance¹ on the improvements set forth in paragraph (1) above.
- c. Correct any deficiency in the improvements set forth in paragraph (1) above that FDOT deems unsatisfactory or below local or state standards within 20 days after receiving notice of the deficiency from the FDOT.

¹ The phrase "non-routine maintenance" includes, but is not limited to, any work requiring a lane closure.

The phrase, "non-routine maintenance" does not include mowing, weeding, slight pruning of bushes, litter removal.

- d. Understand that failure to timely respond to the notice in subparagraph (c) above, allows FDOT the right to perform maintenance/safety related activities at the expense of SJC.
- e. To the extent allowed by law, indemnify and hold harmless FDOT and FDOT's employees or contractees from any claims, loss, damage, cost, charge, fine, or expense arising out of any condition, construction, maintenance or lack of maintenance by SJC or its employees on the improvements set forth in paragraph (1) above.

II. FDOT shall:

- a. Maintain and inspect the bridge limits from begin approach slab (i.e. STA 98+18) to end approach slab (i.e. STA 116+55). This includes slope pavement or mechanical stabilizing earth (MSE) walls to this transition point. The striping, raised pavement markers (RPMs), etc. and nonstandard FDOT items are not included.

III. THE PARTIES AGREE THAT:

- a. FDOT's District Secretary for District 2 (the "District Secretary"), or his or her designee, will decide all questions and disputes of any nature relating to the performance of this Agreement. The District Secretary's decisions regarding questions or disputes relating to this Agreement will be final and binding upon both parties.
- b. In the event FDOT has had to send the notice described in paragraph (1c) on more than two occasions, FDOT reserves the right to terminate this Agreement and re-assume maintenance responsibility for the improvements set forth in paragraph (1) above.
- c. The improvements set forth in paragraph (1) above, may be changed by FDOT when FDOT deems necessary to meet the needs of the public or for safety reasons. FDOT shall give notice of its intention to make such changes at least 60 days prior to instituting any changes to the improvements set forth in paragraph (1) above.
- d. This Agreement may not be assigned or transferred without the express, written consent of FDOT.

- e. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- f. If not otherwise terminated, this Agreement will automatically renew on continual annual terms that coincide with the anniversary of the original execution date.

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
James F. Hannigan, Jr., P.E.
District Maintenance Engineer

(seal)

Attest: _____

Name: _____

(seal)

Attest: _____

Name: _____

Approved:

District 2 General Counsel

(seal)

Attest: _____

Name: _____

Note: Party signing below must initial beside each box checked above in addition to signing below.

By: _____

(seal)

Attest: _____

Name: _____

(seal)

Attest: _____

Name: _____

U.S. 1 FLYOVER MAINTENANCE AGREEMENT

Exhibit A

