

RESOLUTION NO. 2011- 325

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF AN AGREEMENT BY AND BETWEEN THE FRIENDS OF A1A SCENIC AND HISTORIC COASTAL BYWAY, INC. AND ST. JOHNS COUNTY, FLORIDA, REGARDING THE INSTALLATION OF RIGHT-OF-WAY IMPROVEMENTS; PROVIDING FOR THE EFFECT OF RECITALS; AUTHORIZING THE COUNTY ADMINISTRATOR OR DESIGNEE TO EXECUTE THE AGREEMENT AND SUPPLEMENTAL DOCUMENTATION; PROVIDING FOR CORRECTION OF ERRORS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Friends of SR A1A Scenic and Historic Coastal Byway, Inc, and St. Johns County (the "County") desire to enter into an Agreement for the design, construction, installation and maintenance of way-finding signing along various roads within the County; and

WHEREAS, the COUNTY has reviewed the terms, provisions, and requirements of the Agreement, and has determined that accepting the terms of the Agreement serves the public interests of the citizens of St. Johns County.

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

Section 1. The above Recitals are hereby incorporated into the body of this Resolution, and such Recitals are adopted as Findings of Fact.

Section 2. The Board of County Commissioners hereby approves the terms, conditions, provisions, and requirements of the Agreement, (attached hereto and incorporated herein) and authorizes the County Administrator, or designee, to execute the Agreement on behalf of the County.

Section 3. The Board of County Commissioners further authorizes the County Administrator, or designee, to execute any supplement paperwork/documentation necessary to accomplish the overall goal set forth in the Agreement.

Section 4. To the extent that there are typographical, administrative or scrivener's errors that do not change the tone, tenor or concept of this Resolution, then this Resolution may be revised without further action by the Board of County Commissioners.

Section 5. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 15th day of November, 2011.

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

ATTEST:

BY:

Ram Waltherman
Deputy Clerk

C. P. C.
Chair

RENDITION DATE 11/18/11



**AGREEMENT BY AND BETWEEN ST. JOHNS COUNTY, FLORIDA AND
THE FRIENDS OF A1A SCENIC AND HISTORIC COASTAL BYWAY, INC.
REGARDING INSTALLATION AND MAINTENANCE OF
WAY-FINDING SIGNAGE**

This AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2011, by and between St. Johns County, a political subdivision of the State of Florida (hereinafter "County"), and The Friends of SR A1A Scenic and Historical Coastal Byway, Inc., a private, not-for-profit corporation established pursuant to the laws of the State of Florida (hereinafter "Corporation").

Recitals

WHEREAS, the Corporation desires the installation of certain way-finding signs within the rights-of-way of SR A1A; and

WHEREAS, the installation of such signage within the State's rights-of-way requires authorization and issuance of a permit by the State of Florida Department of Transportation (hereinafter "FDOT"), and

WHEREAS, generally, authorization and permits by FDOT to install such signs within the State's rights-of-way are granted to local government entities such as the County; and

WHEREAS, the Corporation maintains that, out of necessity, the County will be required to secure all authorizations and permits needed to install the way-finding signs within the State's rights-of-way; and

WHEREAS, the County and the Corporation desire to enter into this Agreement to memorialize their agreement and understanding as to the permitting, installation, maintenance, repair, replacement and removal of certain way-finding signs as included in, and made part of, the Project.

NOW THEREFORE, in consideration of the foregoing and on the basis of establishing the expectations of the obligations of each party hereto, the parties hereby mutually agree as follows:

Section 1. Incorporation of Recitals.

The above Recitals are incorporated into the body of this Memorandum of Understanding, and said Recitals are adopted by the parties as Findings of Fact.

Section 2. Duration.

The duration of this Agreement runs from _____, 2011 through and until 11:59 pm on _____, 2021.

Section 3. The Project.

The term "Project" as used in this Agreement shall include the design, permitting/approval, construction and installation of way-finding signs within the State's rights-of-way of SR A1A.

Section 4. Authorizations/Permits Secured by the County.

The County and the Corporation agree and understand that the County will be required out of necessity to secure all requisite authorizations and permits by FDOT to install way-finding as included in, and made part of, the Project. Accordingly, any and all design plans and supplemental information necessary to secure requisite authorizations and permits for the Project shall be subject to final approval by the County. Such information may include, but is not limited to, surveys, maps, construction plans, design specifications and sign plans. It is expressly understood by the parties that any way-finding signs not included in, or made part of, the design plans or supplemental information described above shall not be maintained by the County.

Section 5. No Commitment of County Funds.

It is expressly noted and understood by the parties that all costs associated with design, construction, permitting and installation of the Project shall be borne solely by the Corporation. Moreover, it is further expressly noted and understood by the parties that the Corporation cannot demand that the County provide any such funds in any given County Fiscal Year.

Section 6. On-Going Maintenance.

A. Upon final approval by FDOT, and applicable approval by the County, of the Project, the Corporation shall be responsible for on-going maintenance as detailed below:

- i. The Corporation shall provide materials as needed for maintenance and replacement of the way-finding signs included in, and made part of, the Project for the life of the FDOT permit.
- ii. For the life of the FDOT permit, the Corporation shall provide to the County a base supply of materials for maintenance, replacement and/or repair of the way-finding signs as needed. Upon depletion of the base supply of materials, the Corporation shall either: (1) replenish the supply of materials; or (2) provide to the County adequate funding to replenish the supply of materials.
- iii. Failure by the Corporation to provide materials for the maintenance, replacement and/or repair shall be deemed cause for termination of this

agreement and removal of the way-finding signs by the County with no further notice to the Corporation.

B. For the life of the FDOT permit, the County shall provide all labor for the maintenance, replacement, repair and/or removal of way-finding signs included in, and made part of the Project.

Section 7. Amendments to this Agreement.

Both the County and the Corporation acknowledge that this Agreement constitutes the complete agreement and understanding of the parties. Further, both the County and the Corporation acknowledge that any change, amendment, modification, revision, or extension of this Agreement (other than termination, as noted elsewhere in this Agreement) shall be in writing, and shall be executed by duly authorized representatives of both the County, and the Corporation.

Section 8. Assignment.

In light of the scope and rationale for this Agreement, neither the County, nor the the Corporation may assign, transfer, and/or sell any of the rights noted in this Agreement, or associated with this Agreement, without the express written approval of the other party. Should either the County, or the Corporation, assign, transfer, and/or sell any of the rights of this Agreement, without such prior written approval of the other party, then such action on the part of either the County, or the Corporation, shall result in the automatic termination of this Agreement, without further notice or action required on the part of the other party.

Section 9. Termination.

This Agreement may be terminated without cause upon either the County, or the Corporation providing at least ninety (90) days advance written notice to the other party of such notice of termination without cause. Such written notification shall indicate that either the County or the Corporation intends to terminate this Agreement ninety (90) days from the date of notification (unless a date greater than ninety (90) days is specified).

This Agreement may be terminated with cause, upon either the County, or the Corporation providing at least sixty (60) days advance written notice to the other party of such notice of termination for cause. Such written notification shall indicate the exact cause for termination.

Section 10. Indemnification.

The Corporation shall indemnify, defend, and hold the County harmless from all claims (including tort-based, contractual, injunctive, and/or equitable), losses (including property (personal and/or real), and bodily injury), costs (including attorneys' fees),

suits, administrative actions, arbitration, or mediation originating from, connected with, or associated with, or growing out of (directly and/or indirectly), the Project. Moreover, the Corporation shall indemnify, defend, and hold the County harmless from all claims, losses, costs, suits, and administrative actions, arbitration, or mediation, from, or incident to, connected with, associated with, or growing out of the Project direct and/or indirect negligent or intentional acts or omissions associated with the above-noted actions or activities.

Section 11. Access to Records.

The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State or Federal law. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

Section 12. Relationship of the County and the Corporation.

This Agreement shall not be deemed or construed to create any agency relationship, partnership (limited or otherwise), association, or joint venture between the County, and the Corporation.

Section 13. No Conflict of Interest.

The Corporation represents and warrants to the County that the Corporation has not employed or retained any elected official, officer, or employee of the County, in order to secure this Agreement. Moreover, the Corporation represents and warrants to the County that the Corporation has not paid, or offer to pay, or agreed to pay, any person, any fee, commission, percentage, brokerage, fee, incentive fee, or gift of any kind, contingent upon, or in connection with, securing and executing this Agreement.

Section 14. No Third Party Beneficiaries.

Both the County and the Corporation explicitly agree, and this Agreement explicitly states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

Section 15. Effect of Failure to Insist on Strict Compliance with Conditions.

The failure of either party to insist upon strict performance of any term, condition, provision, and/or requirement of this Agreement, shall not be construed as a waiver of such term, condition, provision, and/or requirement on any subsequent occasion.

Section 16. Governing Law and Venue.

This Agreement shall be construed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Agreement shall be in St. Johns County, Florida.

Section 17. Compliance with Local, State, and Federal Rules, Regulations, and Laws.

Both the County, and the _____ shall abide by, and comply with, all applicable laws, rules, regulations, orders, and policies, of the County, State, and Federal governments.

Section 18. Notices.

All notices, consents, or other communications shall be in writing, and delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service to the parties as follows:

If to the County: Michael Wanchick
 County Administrator
 500 San Sebastian View
 St Augustine, Florida 32084

If to the CORPORATION: Friends of Scenic and Historic Coastal Byway
 2175 Mizell Road
 St. Augustine, Florida 32080
 Attn: Ms. Anne Wilson, President

Section 19. Captions.

The captions and headings in this Lease are for convenience only and do not define, limit, or describe the scope or intent of any Articles or Sections of the Lease.

Section 20. Severability.

If any word, phrase, sentence, part, subsection, section, or other portion of this Agreement, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Agreement, and all applications thereof, not having been declared void, unconstitutional, or invalid shall remain in full force, and effect.

Section 21. Section Authority to Execute.

Each party covenants to the other party/parties that it has the lawful authority to enter into this Contract/Agreement and has authorized the execution of this Contract/Agreement by the party's authorized representative.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement on the month, day and year noted above.

CORPORATION: Friends of HIA

By: Anne Wilson
Name (print)

Anne Wilson
(Signature of authorized officer)

President
Title

11/1/11
Date

COUNTY: ST. JOHNS COUNTY

By: _____
Name (print)

(Signature of authorized officer)

Chairman, Board of County Commissioners
Title

Date

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this ___ day of _____, 2011 by _____, who is personally known to me or who has produced N/A as identification and who did (did not) take an oath.

ATTEST: CLERK OF CIRCUIT COURT

By: _____

Title: _____

Date: _____

NOTARY:

By: _____
Notary of Public (Signature)

Title: _____
Name (typed)

Date: _____

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE

By: _____