MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, APRIL 8 2024

The Lee County Commission convened in regular session at the Courthouse in Opelika, Alabama, Monday, April 8, 2024. The Chairman declared a quorum and officially opened the meeting with the following members recorded as being present: Judge Bill English, Chairman, and Commissioners Doug Cannon, Ross Morris, Gary Long, Tony Langley and Richard LaGrand. Elected Officials in attendance: Sheriff Jay Jones and Coroner Daniel Sexton. News media in attendance: The Observer reporter Hannah Goldfinger and Opelika-Auburn News reporter Alex Husting.

Judge English performed the swearing-in of two new Lee County Emergency Management Agency employees Lauren Jeffers and Nicholas Glover. Judge English said it is the loyalty oath from the Emergency Management Act of 1955, Code of Alabama §31-9-20, to prevent the employment of subversives by the Emergency Management Agency. Judge English congratulated them both.

Next, Coroner Daniel Sexton gave his FY2023 Annual Coroners' Report. Mr. Sexton said last year he was only able to give a partial report, but this is a full year's report, and he presented a copy to each Commissioner. Mr. Sexton highlighted a few accomplishments his office has made since he took over in July 2022, they are: 1) implemented case management software; 2) started transporting decedents in June 2023; 3) currently in the process of constructing a morgue facility; 4) purchased vehicles for county business: 5) purchased laptops and cell phones for county business; and 6) updated the coroner's website for better communication with citizens. Mr. Sexton said all this would not be possible without the support and partnership of the Lee County Commission.

Further, Mr. Sexton reported that last year his office investigated 427 deaths with the following breakdown by cause: 76% natural; 3% homicides; 16% accidents; 4% suicides; and 1% undetermined. Mr. Sexton said of the 33 accidental overdoses in Lee County, 55% or 18 were from fentanyl overdoses. Judge English questioned if they all were all ruled accidents. Mr. Sexton concurred saying since the patient is deceased, it is assumed the overdose was accidental, not intentional. Mr. Sexton said he attended 19 of the 119 autopsies performed by the Alabama Department of Forensic Sciences in Montgomery. Mr. Sexton said he tries to personally attend the autopsy if it involves a homicide or the death of a child since it helps tremendously in getting them completed.

Next, Mrs. Leverette updated the Commission on the broadband expansion grant. Mrs. Leverette said IAC Representative Kelley Gillikin and Sain Associates GIS Manager Dan Mellott were in attendance to address any questions on the matter. Mrs. Leverette said Phase 1 currently involves two agreements in the Salem and South-Central region. Mrs. Leverette said BEAM has started their project in the Salem region which should be finished in the fall. Mrs. Leverette said the other project in the South-Central Area in Loachapoka is in the hands of Point Broadband, which should be completed within the next year. Mrs. Leverette said BEAM and Point Broadband only submitted two proposals. Mrs. Leverette said there is so much money out there for the companies, they can only do so much. Mrs. Leverette said unfortunately there is not a website for citizens to see which projects are currently being undertaken. Mrs. Leverette said during Phase II the ISP's know which projects are out there and will contribute input on which areas are unserved/underserved by submitting an application for those projects which are due May 10. Mrs. Leverette said the applications the ISPs submit will be reviewed, saying we know our priority areas, after reviewing them, then the plans will move forward to award of the contracts as soon as we can. Mrs. Leverette said once construction begins, the county will still be involved due to requirements of quarterly reporting and there will be continual monitoring of the work. The companies will be paid as progress is made and checks will be issued from ARPA funds. Mrs. Leverette said the agreement contains a callback clause so if a company does not perform services as agreed, the county can request the company return the funds. Also, Mrs. Leverette said there is a latency phase at the end of the contract whereby there is a lot required of the ISP's in testing the sites before final payments are made. Commissioner Cannon questioned who does the inspection once the contracts are made. Mrs. Leverette said SAIN & Associates does them and the county performs a risk-assessment on the front-end. Mrs. Gillikin recognized the Commission staff saying a lot of time and background information has been provided in working to push these broadband projects along.

Next, EMA Director Rita Smith recognized Alabama Fire College Coordinator Rudy Rooks who is in attendance to present the "Master Coin" to Clinton Knox. Mrs. Smith said she likes to recognize her employees. Mr. Rooks recognized that Mr. Knox is also a Volunteer Firefighter in Smiths Station. Mr. Rooks said there are many coin levels beginning with basic, intermediate, advanced and masters. Mr. Rooks said each level builds upon the previous one and Mr. Knox is one of about 300 individuals who have worked hard enough to obtain the Master coin. Mr. Rooks presented the "Master Coin" to Mr. Knox. Commissioner Long congratulated Mr. Knox on his dedication and the amount of time it took to complete the Master level and said the community is honored to have him.

Next, Assistant County Engineer Patrick Harvill said April 15–19, 2024 is National Work Zone Awareness Week and the theme is "*Work Zones are temporary. Actions behind the wheel can last forever*." This week is recognized each year in efforts to make the public aware of the importance of safety when traveling through work zones, as each employee puts their life in danger on a daily basis by working with the traveling public on county rights-of-way. The 2021 Nationwide Statistics said work zone fatalities reached a 17-year high with 105,000 work zone crashes, 42,000 injured and 954 fatalities in work zones. Of the 42,000 injured, 29,000 work zone crashes involved construction workers. Mr. Harvill said on average a Highway Maintenance Worker dies on the job an average of 3.7 times more often than the average worker. Mr. Harvill said that in 63% of the highway worker fatalities, the vehicle struck the worker because of the workers inability to get out of the way, saying there is nowhere for the worker to go to avoid the accident. Mr. Harvill said the Highway Department has five crews, or approximately 30 employees in the field on the roadways every day. Mr. Harvill said each year National Work Zone Awareness Week is mentioned to bring awareness to the community in an attempt to make things safer for the maintenance workers.

Parks Director Ryan Norris presented pictures of the progress at Loachapoka Park and updated the Commission on the construction progress. Mr. Norris reported the contractor of the pavilion portion began work March 25. Mr. Norris thanked the Loachapoka Water Authority for getting water in place for construction of the pavilion. Commissioner Cannon thanked the Highway Department for the work they did prepping and grading the site for construction. Mr. Norris agreed, saying thanks to their work both the pavilion pad and the parking lot area are ready. Commissioner LaGrand thanked them as well and questioned the date of delivery of the plants. Mr. Norris said they are expecting a full truckload of plants to arrive this week which will be used as a buffer along the edges of the property line.

Copies of the items on the Consent Agenda sent to the Commissioners in their packets included: listings of claims, a procurement card transactions listing, and a copy of the minutes of the meeting on March 25, 2024. First reading to reappoint Aric Andrade to the Smiths Station Fire & Rescue was made. Commissioner Cannon made a motion, seconded by Commissioner Morris, to approve the consent agenda items as presented. The motion carried unanimously.

Under old business, Lakiesha Young-Hicks appeared again with questions and concerns on the Broadband project. Ms. Young-Hicks thanked Mrs. Leverette for communicating with her by email, but said she has additional questions and requested a working map, if possible. Mrs. Leverette said a map is in the works and once complete will be available on the county's website. Ms. Young-Hicks questioned who is monitoring to ensure roads are not being left off. Mrs. Leverette said it is a difficult task since the county is not in the broadband business. The county is utilizing the funds available to build out broadband for its citizens but cannot guarantee that 100% of the county will be covered. Mrs. Leverette explained that is the reason for doing Phase II, since there are areas that still need attention. Ms. Young-Hicks questioned how SAIN & Associates will fact check. Mrs. Leverette said they have good contacts with the providers. Mrs. Leverette explained that once an application is approved according to Treasury guidelines for a reasonable expenditure of funds, then it is up to the company on how they start the project, saying the next round of agreements should move faster. Mrs. Leverette reminded the Commission that the funds must be allocated by December 2024 and any funds leftover may be shifted to other projects. Ms. Young-Hicks pleaded with the Commission to push the cable projects along, since it is hard for students and others to keep up without adequate internet speeds. Commissioner LaGrand thanked Ms. Young-Hicks for her help in the process and agreed he wants to see that all of Lee County has internet.

Next, Mrs. Leverette again discussed the need to upgrade the ProWatch electronic boards, cards and software that operates the access controls to county buildings. Mrs. Leverette said Information Technology Director Amanda Sides and Maintenance Director Jerry Lynch spoke during the work session on the need to update to the most current technology. Mrs. Leverette reminded the Commission of the options saying Option 1 implements the change gradually over time at a cost of $162,445, whereas Option 2 implements the changes all at once for $341,178. Also, Mrs. Leverette said there are two funding options for the project. One is to recognize unassigned General Fund balance as revenue and amend the current FY2024 Capital Fund budget to include it or to use up to $341,178 of ARPA Revenue Replacement Funds which can be utilized for a governmental purpose. Commissioner Cannon made a motion to approve the following Resolution selecting Option 2 to implement the changes all at once and selecting Option 2 for funding the project from ARPA Revenue Replacement funds. The motion was seconded by Commissioner Morris and carried unanimously.

RESOLUTION FOR THE EXPENDITURE OF AMERICAN RESCUE PLAN ACT FUNDS FOR GOVERNMENT SERVICES

WHEREAS, Lee County, Alabama (the "County") has received American Rescue Plan Act fiscal recovery funds ("ARPA funds") and is charged with ensuring that such funds are expended in accordance with state and federal law; and

WHEREAS, in accordance with the provisions of final rule published by the United States Department of Treasury dated January 6, 2022, the County has duly elected to designate a standard allowance of up to $10,000,000 of its ARPA funds as revenue replacement ("ARPA revenue replacement funds"); and

WHEREAS, the County may use ARPA revenue replacement funds to fund government services, including providing for security in County-owned buildings; and

WHEREAS, the County's existing card access system, including the software application and related hardware needs to be updated in order continue appropriate functionality; and

WHEREAS, the County Commission has determined that updating the card access system (the "Project") is a necessary, reasonable, and proportionate measure to facilitate the provision of these government services; and

WHEREAS, the County will procure any goods and services needed to support the Project in a manner consistent with the Competitive Bid Law and federal guidelines, including compliance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200), as applicable to ARPA revenue replacement funds.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION as follows:

1) The County shall use up to $341,178.00 of ARPA funds, so designated as ARPA revenue replacement funds, to facilitate the provision of the government services described herein.

2) The Chief Administrative Officer and Chief Financial Officer are hereby authorized to expend these funds to cover costs necessary to facilitate the Project including, but not limited to, materials purchased for portions of the work performed by County staff or goods and services from qualified contractors as described herein from appropriately procured vendors to facilitate the provision of these services.

3) The ARPA Program Director is charged with ensuring that ARPA revenue replacement funds allocated and expended to provide these government services will not be used in such a way as to frustrate COVID-19 mitigation guidance issued by the Centers for Disease Control, or for any other use prohibited by the Final Rule or any applicable state or federal law.

4) Expenditure of these funds, as authorized by this Resolution, shall be contingent on the continued appropriation and availability of ARPA revenue replacement funds for this purpose and in no event shall be used for any expenses not obligated by December 31, 2024, and expended by December 31, 2026.

IN WITNESS WHEREOF, the Lee County Commission has caused this Resolution to be executed in its name and on its behalf by its Chairman on the 8th day of April 2024.

After discussion of the matter during the work session, Assistant County Engineer Patrick Harvill again presented for Commission consideration the finalized list of "No Truck" routes and of routes to have their current posting removed. Mr. Harvill said the first list containing 16 roads will be designated and posted "No Truck" routes, they include: Lee Roads 10, 11, 80, 81, 86, 106, 117, 122, 147, 159, 177, 221, 394, 446, 2054 and 2055. The second listing of eight roads is roads the Highway Department is recommending removing the designation. The first four are: Lee Roads 147, 166 390 and 434 of weight restricted routes and the second list of four roads are: Lee Roads 22, 47, 54 and 157 of "No Trucks" routes. Commissioner Morris made a motion, seconded by Commissioner Cannon, to remove the designations as "No Trucks" route and weight restrictions from the eight roads noted. The motion passed unanimously.

Next, Commissioner Langley made a motion, seconded by Commissioner Morris to approve the 1st page designating 16 roads as "No Trucks" routes as noted above. The motion passed unanimously.

After discussion of field rental fees during the work session, Judge English said the Commission asked Mr. Norris to confer with the Lee County Recreation Board members on the matter to see if they have previously had requests to discount field rental rates and to get their thoughts on the concept.

Judge English presented for Commission consideration the following Memorandum of Understanding with the Lee County Health Department for improvements to the building at no cost to the county. Commissioner Long questioned if they are asking for dead trees to be removed or for just general landscaping. Judge English said he believes it is for both items. Judge English said they are asking for permission to do preventive maintenance and improvements to the building and feels the county should allow them to do the work on the building since it costs the county nothing. Commissioner Cannon made a motion, seconded by Commissioner Long, to approve the following Memorandum of Understanding and authorize Judge English to sign the document. The motion carried unanimously.

MEMORANDUM OF UNDERSTANDING
AMONG THE ALABAMA DEPARTMENT OF PUBLIC HEALTH,
THE ALABAMA PUBLIC HEALTH CARE AUTHORITY,
AND THE LEE COUNTY COMMISSION FOR IMPROVEMENTS
TO THE LEE COUNTY PUBLIC HEALTH FACILITY

This Memorandum of Understanding (MOU) entered into by and among the Alabama Department of Public Health, hereinafter "Department," the Alabama Public Health Care Authority, hereinafter "APHCA", and the Lee County Commission, Lee County, Alabama, hereinafter the "County," is effective January 1, 2024, and terminates June 30, 2026.

WHEREAS, the parties have been unable to locate an agreement for a lease of the public health facility located at 1801 Corporate Drive, Opelika, Alabama, in Lee County (the "Premises"), which is owned by the County and occupied by the Department, with the County and the Department have historically operated as lessor and lessee, for the Department's continued use of the Premises; and

WHEREAS, it is the understanding of the County and the Department that the Premises is intended to include all improvements to the public health facility and related parking facilities, and all furnishings, fixtures, and equipment installed therein, and no alterations, additions or improvements to the Premises are to be made by the Department without first obtaining the express written consent of the County; and

WHEREAS, APHCA is a public corporation duly incorporated and authorized by resolution of the County Commission of Lee County, Alabama on November 21, 1995, under the provisions of The Health Care Authorities Act of 1982 codified at Alabama Code Sections 22-21-310 through 22-21-359, which authorizes APHCA to acquire, construct, install, equip, renovate and/or refurbish public health care facilities in order to promote public health throughout the State of Alabama; and

WHEREAS, the Department contributed funds to APHCA to allow APHCA to make certain repairs and maintenance in public health facilities, including, but not limited to, the Premises;

NOW, THEREFORE, in consideration of the mutual covenants herein below specified and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties herein agree to the following:

The County and the Department are mutually desirous of APHCA making the following improvements at the Premises:

1. Repaint light poles with rust inhibitive paint.
2. Paint exterior metal doors with rust inhibitive paint.
3. Repaint metal windows.
4. Replace original carpet in Nurses Offices.
5. Replace original carpet throughout building.
6. Refinish interior metal doors and frames.
7. Replace water heater.
8. Pressure wash all concrete surfaces.
9. Remove dead trees and general landscaping.
10. Remove/relace, add chair rails.
11. Paint interior walls.
12. Remove vinyl wall covering and paint walls.
13. Make minor changes to these improvements as required.

The estimated cost for such improvements is $366,800.00, to be paid by APHCA using the funds contributed to APHCA by the Department. Should the cost of materials, labor or other related costs for the proposed improvements increase above the estimated cost due to factors beyond APHCA's control, the County and the Department agree and understand that the proposed improvements may be subject to reduction or modification. Additional improvements to those listed hereinabove may be undertaken by APHCA pursuant to a written amendment to this MOU, subject to the County's approval.

The parties agree to the use of the services of The Robins & Morton Group as the Program Management Contractor for the facility improvements. APHCA shall provide, at its own cost and expense, any and all appurtenances, devices, or accessories required from said Program Management Services.

The Department and the County agree and understand that the above-described facility improvements remain with the Premises as fixtures and are not subject to removal by the Department upon termination for their relationship as lessor and lessee or this MOU. The Department agrees further to pay and increase costs for casualty insurance, utilities, and taxes resulting from the facility improvements for which it may be responsible, in accordance with the terms and conditions of the parties' agreement.

This MOU will be incorporated as an addendum to the parties' agreement. All other provisions thereof shall remain in full force and effect.

This MOU may be canceled at any time by either party providing thirty (30) day written notice to the other party.

Sheriff Jones presented the results of Bid#2024-06 for 14 or more Chevrolet Tahoes. Sheriff Jones said two bids were returned and the lowest responsive bid received was from Donohoo Chevrolet LLC for $49,375/each for a total cost of $691,250.00. Commissioner Cannon made a motion, seconded by Commissioner LaGrand, to award the bid for 14 or more Chevrolet

Tahoes for $691,250.00 to Donohoo Chevrolet LLC. The motion passed unanimously.

Mr. Hardee said the Highway Department and Commissioner Long were approached by LaFaye Dellinger and her son Jeff Elliott about the public nature of Lee Road 515. Mr. Hardee said the road is approximately 750' in length to where it turns into Mr. Elliott's driveway. It is currently a non-county-maintained road, and the Highway Department's records did not reveal any indication of maintenance in the past. Included in the Commissioners' packets were a copy of Lee County's tax map that shows Mr. Elliott's property and images from Google Earth from 1993 and 1999 showing the area before and after Hunter's Ridge Subdivision was developed. Mr. Elliott appeared before the Commission to question the public nature of Lee Road 515 saying it has a green sign which indicates it is a county road. Judge English said the green sign indicates it is a non-county maintained public road. Mr. Elliott said he was granted an easement when he purchased his property but did not realize it was only a temporary easement since it was never deeded to the property by the previous homeowner. Mr. Hardee said according to the Highway Department's information, citizens of Lee Road 515 petitioned in 1992 for the county to maintain the road but has no record that it was acted upon. Mrs. Dellinger said the road used to go all the way through from Lee Road 208 to some other public road but when the Hunter's Ridge Subdivision was built, that road was cut-off. Judge English questioned Mr. Elliott whether Lee Road 515 goes all the way to his property. Mr. Elliott concurred saying it is his only access to his house. Mr. Elliott said he came out of his driveway one day and the owner told him he was driving across her property. Mr. Elliott said one of the parcel owners, the owner of Parcel 180, accepted his offer to purchase a small portion on the back of their property (for his use as a driveway), but the owner of Parcel 179 will not accept his generous offer for a small piece on the back of their property. Mr. Elliott said the road has been used for over 30 years and he only wants access to his property, regardless of the situation. Mr. Elliott said he has a legal right to access his property. Judge English said it appears to be a legal issue that may require court action to resolve. Judge English questioned Mr. Hardee's opinion. Mr. Hardee said he has no legal opinion and deferred to County Attorney Stan Martin. Mr. Martin said the public nature of a road is a factual determination that must be made by the County Commission. Mr. Martin said he previously provided a cheat sheet to the Commission for the determination of what is a county road. Mr. Martin, in his opinion, said they may need to go to court over access across Parcel 179. No action was taken by the Commission.

Mr. Hardee presented a Federal Aid Project for the resurfacing of Lee Road 240 from Hospilika Creek bridge to the Russell County Line, approximately 4.671 miles. Mr. Hardee said the project is an 80/20 match with an anticipated amount of $1,223,837.91 with the county's 20% match of $244,767.59. Commissioner Long made a motion, seconded by Commissioner Langley to authorize Judge English to sign the Resolution and execute the following agreement for the Federal Aid Project for resurfacing Lee Road 240. The motion carried unanimously.

RESOLUTION

BE IT RESOLVED, by the Lee County Commission as follows:
that the County enter into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation relating to a project for:
Resurfacing on CR-240 from the Hospilika Creek Bridge to the county line road:
Project#STPPC-4123(252); CPMS Ref# 100073174.
Which agreement is before this Commission, and that the agreement be executed in the name of the County, by the Chairman for and on its behalf and that it be attested by the County Clerk and the official seal of the County be affixed thereto.

BE IT FURTHER RESOLVED that upon the completion of the execution of the agreement by all parties, a copy of such agreement be kept on file by the County.

Done this the 8th day of April, 2024.

CONSTRUCTION AGREEMENT FOR A FEDERAL AID PROJECT
BETWEEN THE STATE OF ALABAMA AND THE LEE COUNTY COMMISSION
PROJECT NO. STPPC-4123(252) COUNTY PROJECT NO. LCP 41-240-22
CPMS REF#100073174

PART ONE (1): INTRODUCTION

This agreement is made and entered into by and between the State of Alabama (acting by and through the Alabama Department of Transportation), hereinafter referred to as the STATE; and the Lee County Commission, Alabama (FEIN 63-6001601) hereinafter referred to as the County.

WHEREAS, the State and the County desire to cooperate in the resurfacing on CR-240 from the Hospilika Creek bridge to the county line road; Project #STPPC-4123(252); CPMS REF#100073174.

NOW, THEREFORE, it is mutually agreed by the State and the County as follows:

PART TWO (2): FUNDING PROVISIONS

A. PROJECT FUNDING: The STATE will not be liable for Federal Aid Funds in any amount. The Project will be limited to $979,070.32 Federal funds unless the Phenix City Area Metropolitan Planning Organization agrees, subject to the approval of the State, to reprogram the allocated Federal funds to for the Phenix City Area sufficient to 80% of the project cost. Any overruns not covered by the MPO will be borne by the County from County Funds. In an event of an underrun in project costs, the amount of Federal Aid funds will be the amount stated below, or 80% of eligible project costs, whichever is less.
B. The estimated cost and participation by the various parties is as follows:

FUNDING SOURCE	ESTIMATED COSTS
FA STP Funds (Phenix City Area Dedicated)	$ 979,070.32

COUNTY FUNDS	$ 244,767.59
TOTAL (Incl CE&I)	$ 1,223,837.91

It is further understood that this is a cost reimbursement program, and no federal funds will be provided to the County prior to the accomplishment of the work for which it is requested. Furthermore, no federal funds will be reimbursed for work performed prior to project authorization.

Any costs incurred by the County relating to this project which is determined to be ineligible for reimbursement by the Federal Highway Administration (FHWA), or in excess of the limiting amounts previously stated, will not be an eligible cost of the project and will be borne and paid by the County.

C. Time Limit: This project will commence upon written authorization to proceed from the State directed to the County.

The approved allocation of funds for projects containing Industrial Access funds shall lapse if a contract has not bee awarded for construction of the project within (12) months of the date of the funding approval by the Industrial Access Road and Bridge Corporation Board, and the approved allocation shall be returned to the IARB for reallocation. A time extension may be approved by the IARB upon formal request by the applicant.

The approved allocation of funds for projects containing Federal Transportation Alternatives Set-Aside funds may lapse if a project has not been authorized by FHWA within (24) months of the date of the funding approval by the Governor, and the approved allocation shall be returned to the State for re-allocation. A time extension may be approved by the State upon formal request by the applicant. Failure to meet other project milestones, as set forth in the TAP Guidelines, may result in an approved allocation being returned to the State.

PART THREE (3): PROJECT SERVICES

A. The County will furnish all right-of-way for the project. Associated Right-of-Way acquisition costs will not be an eligible cost as part of this Agreement. The Right-of-Way acquisition phase is hereby defined as the appraisal fees, appraisal review fees and the cost of the acquisition incurred.

All work accomplished under the provisions of this Agreement will be accomplished on property owned by or which will be acquired by the County in accordance with applicable Federal and State laws, regulations and procedures. Any exceptions to this requirement must be approved by the State in writing prior to incurring costs for which reimbursement is requested by the County. In cases where property is leased, or easements obtained, the terms of the lease or easement will not be less than the expected life of the improvements.

Acquisition of real property by the County as a part of this project will conform to and be in accordance with the provisions of the Federal Uniform Relocation Assistance & Real Property Acquisition Policies Act (49 CFR 24, subpart B), all Federal environmental laws, and all other applicable state and federal laws.

Any property or property interests acquired shall be in the name of the County with any condemnation or other legal proceedings being performed by the County.

The County shall follow all Federal regulations related to the Management, Leasing and Disposal of Right-of-Way, uneconomic remnants and excess Right-of-Way as found in CFR 23 § 710 Subpart D. Proceeds for Leases and Disposals shall be credited to the Project or to the Title 23 Collector Account.

No change in use or ownership of real property acquired or improved with funds provided under the terms of this Agreement will be permitted without proper written approval from the State or FHWA. The State or FHWA will be credited on a prorata share, as provided in Part Two, Section B, any revenues received by the County from the sale or lease of property.

B. The County will relocate any utilities in conflict with the project improvements in accordance with applicable Federal and State laws, regulations, and procedures. Associated utility costs will not be an eligible cost as part of this Agreement.

C. The County will make the Survey, perform the Design, complete the Plans and furnish all preliminary Engineering for the Project with county forces or with a consultant approved by the State. Associated Survey, Design, Plan Preparation, and Preliminary Engineering costs will not be an eligible cost as part of this Agreement.

If any associated Survey, Design, Plan Preparation and Preliminary Engineering costs are an eligible cost to the project, the County will develop and submit to the State a project budget for approval. This budget will be in such form and detail as may be required by the State. At a minimum, all major work activities will be described, and an estimated cost and source of funds will be indicated for each activity. A signature line will be provided for approval by the Region Engineer and date of such approval. All costs for which the County seeks reimbursement must be included in a budget approved by the State in order to be considered for reimbursement. Budget adjustments may be necessary and may be allowed, subject to the approval of the State in writing, in order to successfully carry out the project. However, under no circumstances will the County be reimbursed for expenditures over and beyond the amount approved by the State.

The County will undertake the project in accordance with this Agreement, plans approved by the State and the requirements, and provisions, including the documents relating thereto, developed by the County, and approved by the State. The plans including the documents related thereto are of record in the Alabama Department of Transportation and are hereby incorporated in and made part of this Agreement by reference. It is understood by the County that failure of the County to carry out the project in accordance with this Agreement and approved plans, including documents relating thereto, may result in the loss of federal or state funding and the refund of any federal or state funds previously received on this project.

Projects containing Industrial Access funds or State funds, with no Federal funds involved, shall have completed original plans furnished to the State in accordance with the Guidelines for Procedures for Processing State and Industrial Access Funded

County and City Projects, and attached hereto as a part of this Agreement prior to the County letting the contract.

D. The County will furnish all construction engineering for the project with County forces or with a consultant approved by the State as part of the cost of the project. Construction Engineering & Inspections costs are not to exceed 7%, without prior approval by the State. Associated Construction Engineering & Inspection costs will be an eligible cost as part of this Agreement.

E. The State will furnish the necessary inspection and testing of materials when needed as part of the cost of the project. The County may request the use of an approved third-party materials inspection and testing provider, as approved by the State.

PART FOUR (4): CONTRACT PROVISIONS

A. The County shall not proceed with any work covered under the provisions of this Agreement until the State issues written authorization to the County to proceed.

B. Associated construction cost will be an eligible cost as part of this Agreement.

For projects let to contract by the State, the State will be responsible for advertisement and receipt of bids and the award of the Contract. Following the receipt of bids and prior to the award of the Contract, the State will invoice the County for its pro rata share of the estimated cost as reflected by the bid of the successful bidder plus Engineering & Inspection and Indirect Costs (if applicable). The County shall pay this amount to the State no later than 30 days after the date bids are opened. Failure to do so may lead to the rejection of the bid.

For projects let to contract by the County, the County shall comply with all Federal and State laws, rules, regulations, and procedures applicable to the advertisement, receipt of bids, and the award of the contract. The County will, when authorized by the State, solicit bids, and make awards for construction and/or services pursuant to this Agreement. The County shall not solicit bids until the entire bid package (plans, specifications, estimates, etc.) has been reviewed and approved by the State. Following receipt of bids, the County will provide all bids to the State with a recommendation for award. The County shall not award the contract until it has received written approval from the State.

For projects with approval by the State to use County forces, the Construction for the project will be performed by the County at actual costs for labor, materials, and equipment, as approved by the State.

The purchase of project equipment and/or services financed in whole or in part pursuant to the Agreement will be in accordance with applicable Federal and State laws, rules, regulations, and procedures, including state competitive bidding requirements applicable to counties and municipalities in the State of Alabama when the purchase is made by any such entity.

C. If necessary, the County will file an Alabama Department of Environmental Management (ADEM) National Pollutant Discharge Elimination System (NPDES) Notice of Registration (NOR) (Code Chapter 335-6-12) for this project without cost to the State or this Project. The County will be the permittee of record with ADEM for the permit. The County and the contractor will be responsible for compliance with the permit and the State will have no obligation regarding the permit. The County will furnish the State (Region) a copy of the permit prior to any work being performed by the contractor.

The County will secure all permits and licenses of every nature and description applicable to the project in any manner; conform to and comply with the requirements of any such permit or license; and comply with each and every requirement of any and all agencies, and of any and all lawful authorities having jurisdiction or requirements applicable to the project or to the project activities.

D. The County will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, Latest Edition, on this project and will ensure that work associated on this project meets the standards of the Alabama Department of Transportation, and the project will be built in accordance with the approved plans.

E. The County shall be responsible at all times for all of the work performed under this Agreement and, as provided in Ala. Code § 11-93-2 (1975), the County shall indemnify and hold harmless The State of Alabama, The Alabama Department of Transportation, its officers, officials, agents, servants, and employees.

For all claims not subject to Ala. Code § 11-93-2 (1975), the County shall indemnify and hold harmless the State of Alabama, the Alabama Department of Transportation its officers, officials, agents, servants, and employees from and against any and all damages, claims, loss, liabilities, attorney's fees or expenses whatsoever or any amount paid in comprise thereof arising out of, connected with, or related to the (1) work performed under this Agreement, (2) the provision of any services or expenditures of funds required, authorized, or undertaken by the County pursuant to the terms of this Agreement, or (3) misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the County, its officers, officials, agents, servants, and employees.

F. The County will be obligated for the payment of damages occasioned to private property, public utilities or the general public caused by the legal liability (in accordance with Alabama and/or Federal law) of the County, its agents, servants, employees, or facilities.

G. Upon completion and acceptance of this project by the State, the County will assume full ownership and responsibility for the portion of the project work on County right-of-way and maintain the project in accordance with applicable State law.

PART FIVE (5): ACCOUNTING PROVISIONS

A. The County will, when appropriate, submit reimbursement invoices to the State for work performed in carrying out the terms of this Agreement. Requests for reimbursement will be made on forms provided by the State and will be submitted through the Region Engineer for payment. The County may invoice the not more often than once per month for the funds due for work performed under this Agreement. Invoices for payment will be submitted in accordance with state law and will indicate that the payment is due, true, correct, and unpaid, and the invoice will be notarized. Invoices for any work performed under the terms of this Agreement will be submitted within 12 months after the completion of and acceptance by the State of the work. Any invoice submitted after this twelve-month period will not be eligible for payment.

B. The County will not assign any portion of work of the work to be performed under this Agreement or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement, without the prior written approval of the State.

C. The County will establish and maintain a cost accounting system that must be adequate and acceptable to the State as determined by the auditor of the State.
All charges to the project will be supported by properly executed invoices, contracts, or vouchers, as applicable, evidencing in proper detail the nature and propriety of the charges in accordance with the requirements of the State. All checks, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the project will be clearly identified, readily accessible and to the maximum extent feasible, kept separate and apart from all other such documents.
The County will report to the State the progress of the project in such manner as the State may require. The County will also provide the State any information requested by the State regarding the project. The County will submit to the State financial statements, data, records, contracts and other documents and items of any respect related to the project as may be requested by the State.
The County will permit the State, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, to inspect, at any time, vehicles and equipment utilized or used in the project or to the accomplishment of the project. The County will also permit the above noted persons to audit the books, records and accounts pertaining to the project at any and all times, and the County will give its full cooperation to those persons or their authorized representatives, as applicable.
The County will comply with all audit requirements set forth in the 2 CFR Part 200 requirements, or the most current version of those requirements under federal law.

D. The County will retain all books, records, and other documentation relative to this Agreement for a minimum of three (3) years after project termination, expiration of Federal interest, or close out, and the State, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, will have full access to and the right to examine any of said materials at all reasonable times during said period.

E. Any user fee or charge to the public for access to any property or services provided through the funds made available under this Agreement, if not prohibited by a Federal, State, or local law, must be applied for the maintenance and long-term upkeep of the project authorized by this agreement.

F. An audit report must be filed with the Department of Examiners of Public Accounts, upon receipt by the County, for any audit performed on this project in accordance with

Act No. 94-414.

PART SIX (6): MISCELLANEOUS PROVISIONS

A. By entering into this Agreement, the County is not an agent of the State, its officers, employees, agents, or assigns. The County is an independent entity from the State, and nothing in this Agreement creates an agency relationship between the parties.

B. It is agreed that the terms and commitments contained in this Agreement shall not constitute a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment 26. It is further agreed that, if any provision of this Agreement shall contravene any statute or Constitutional provision or amendment, either now in effect or which may be enacted during the term of this Agreement, then the conflicting provision in this Agreement shall be deemed null and void.

C. By signing this Agreement, the contracting parties affirm, for the duration of Agreement, that they will not violate Federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

D. No member, officer, or employee of the County, during their tenure of employment and for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds, profits, or benefits therefrom.

E. The terms of this Agreement may be modified by revision of this Agreement duly executed by the parties hereto.

F. This Agreement may be terminated by either party upon the delivery of a thirty (30) day notice of termination.

G. Nothing shall be construed under the terms of this Agreement that shall cause any conflict with Section 23-1-63, Code of Alabama, 1975.

H. Exhibits A, E, H, M, and N are hereby attached to and made a part of this Agreement.

EXHIBIT A

PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN FEDERAL AID PROGRAM

Policy. It is the policy of the U.S. Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Agreement.

DBE Obligation. The recipient of funds under the terms of this Agreement agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. The recipient shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to see that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts and shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of U.S. Department of Transportation assisted contracts. Failure of the recipient of funds under the terms of this Agreement, or failure of its subcontractor (if a subcontractor is authorized) to carry out the DBE requirements of this Agreement shall constitute a breach of contract and may result in termination of the contract by the State, or such other remedy may be undertaken by the State as it deems appropriate.

EXHIBIT E

TERMINATION OR ABANDONMENT

a. The State has the right to abandon the work or to amend its project at any time, and such action on its part shall in no event be deemed a breach of contract.

b. The State has the right to terminate this Agreement at its sole discretion without cause and make settlement with the County upon an equitable basis. The value of the work performed by the County prior to the termination of this Agreement shall be determined. In determining the value of the work performed, the State shall consider the following:

1. The ratio of the amount of work performed by the County prior to the termination of the Agreement to the total amount of work contemplated by this Agreement less any payments previously made.

2. The amount of the expenses to which the County is put in performing the work to be terminated in proportion to the amount of expense to which the County would have been put had he been allowed to complete the total work contemplated by the Agreement, less any payments previously made. In determining the value of the work performed by the County prior to the termination, no consideration will be given to profit, which the County might have made on the uncompleted portion of the work. If the termination is brought about as a result of unsatisfactory performance on the part of the County, the value of the work performed by the County prior to termination shall be fixed solely on the ratio of the amount of such work to the total amount of work contemplated by this Agreement.

CONTROVERSY

In any controversy concerning contract terms, or on a question of fact in connection with the work covered by this project, including compensation for such work, the decision of the Transportation Director regarding the matter in issue or dispute shall be final and conclusive of all parties.

CONTRACT BINDING ON SUCCESSORS AND ASSIGNS

a. This contract shall be binding upon the successors and assigns of the respective parties hereto.

b. Should the Agreement be terminated due to default by County, such termination shall be in accordance with applicable Federal Acquisition Regulations.

EXHIBIT H

EQUAL RIGHTS PROVISIONS

During the performance of this contract, the County for itself, its assignees and successors in interest agrees as follows:

a. Compliance with Regulations

The County will comply with the Regulations of the Department of Transportation relative to nondiscrimination in federally assigned programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, as amended by 23 CFR 710-405(b), hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects):
- Federal-aid Highway Act of 1973, (23 U.S.C. § 324 *et seq*.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq*.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq*.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations, which ensures

nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq*).

b. Nondiscrimination

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. §2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the County agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability. The County will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices where the contract covers a program set forth in Appendix B of the Regulations.

The County will comply with all provisions of Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.

c. Solicitations

In all solicitations either by competitive bidding or negotiation made by the County for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by the County of the County's obligation under this contract and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex, or national origin.

d. **Information and Reports**

The County will provide all information and reports required by Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, or other sources of information and its facilities as may be determined by the State of the Federal Highway Administration to be pertinent to ascertain compliance with such regulations, orders, and instructions. Where any information required of a County is in the exclusive possession of another who fails or refuses to furnish this information, the County shall so certify to the State, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. Sanctions for Noncompliance

In the event of the County's noncompliance with the nondiscrimination provisions provided for herein, the State shall impose such contract sanctions as it may determine to be appropriate, including but not limited to,

1. withholding of payments to the County under contract until the County complies, and/or
2. cancellation, termination, or suspension of the contract, in whole or in part.

f. Incorporation of Provisions

The County will include the foregoing provisions a. through f. in every subcontract including procurement of materials and leases of equipment, unless excepted by the Regulations, orders or instructions issued pursuant thereto. The County will take such action with respect to any subcontract, procurement, or lease as the State may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a County becomes involved in, or is threatened with, litigation with subcontractors, suppliers, or lessor as a result of such direction, the County may request the State to enter into such litigation to protect the interest of the State.

g. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

1. Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000 e, and Federal Transit laws at 49 U.S.C. § 5332, the County agrees to comply with all applicable equal employment requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. §2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project.
   The County agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the County agrees to comply with any implementing requirements FTA may issue.
2. Age – In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the County agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the County agrees to comply with any implementing requirements FTA may issue.
3. Disabilities – In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the County agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition,

the Contractor agrees to comply with any implementing requirements FTA may issue.

COST PRINCIPLES

The State's cost principles for use in determining the allowability of any item of cost, both direct and indirect, in this Agreement, shall be the applicable provisions of Volume I, Federal Acquisition Regulations, Parts 30 and 31. The County shall maintain costs and supporting documentation in accordance with the Federal Acquisition Regulations, Parts 30 and 31 and other Regulations referenced with these Parts where applicable. The County shall gain an understanding of these documents and regulations. The applicable provisions of the above referenced regulations documents are hereby incorporated by reference herein as if fully set forth.

EXECUTORY CLAUSE AND NON-MERIT SYSTEM STATUS

a. The County specifically agrees that this Agreement shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the State beyond the moneys available for this purpose.

b. The County, in accordance with the status of County as an independent contractor, covenants and agrees that the conduct of County will be consistent with such status, that County will neither hold County out as, or claim to be, an officer or employee of the State by reason hereof, and that County will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State under the merit system or any other law of Alabama, including but not limited to workmen's compensation coverage, or retirement membership or credit or any Federal employment law. This paragraph also applies in like manner to the employees of County.

COUNTY'S CERTIFICATIONS

The County by acceptance of this contract certifies that the rates o composition of cost noted in Article IV – PAYMENTS are based on the current actual hourly rates paid to employees, estimated non-salary direct cost based on historical prices, the latest available audited indirect cost rate, and estimated cost of reimbursements to employees for travel (mileage, per diem, and meal allowance) based on the current policy of the County. The County agrees that mileage reimbursements for use of company vehicles is based on the lesser of the approved rate allowed by the General Services Administration of the United States Government or the reimbursement policies of the County at the time of execution of the Agreement. The County agrees that no mileage reimbursement will be allowed for the purpose of commuting to and from work or for personal use of a vehicle. The County agrees that the per diem rate will be limited to the rate allowed by the State at the time of execution of the Agreement. The County agrees that a meal allowance shall be limited to County employees while in travel status only and only when used in lieu of a per diem rate.

The County shall submit detailed certified labor rates as requested, and in a timely manner, to the External Audits Section of the Finance and Audits Bureau of The Alabama Department of Transportation. The County agrees that material differences between rates submitted with a proposal and rates provided as certified for the same proposal are subject to adjustment and reimbursement.

EXHIBIT M

CERTIFICATION FOR FEDERAL-AID CONTRACTS: LOBBYING

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative Agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the prospective participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.

EXHIBIT N

FUNDS SHALL NOT BE CONSTITUTED AS DEBT

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this Agreement shall contravene any statute or Constitutional provision of amendment, either now in effect or which may, during the course of this Agreement, be enacted, then the conflicting provision in this Agreement shall be deemed null and void.

When considering settlement of controversies arising from or related to the work covered by this Agreement, the parties may agree to use appropriate forms of non-binding alternative dispute resolution.

TERMINATION DUE TO INSUFFICIENT FUNDS

a. If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.

b. In the event of proration of the fund from which payment under this Agreement is to be made, agreement will be subject to termination.

NO GOVERNMENT OBLIGATION TO THIRD PARTY CONTRACTORS

The State and County acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations of or liabilities to the State, County, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The County agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided to FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

STATE OF ALABAMA DEPARTMENT OF TRANSPORTATION
GUIDELINES FOR OPERATION
SUBJECT: PROCEDURES FOR PROCESSING STATE AND INDUSTRIAL ACCESS FUNDED COUNTY AND CITY PROJECTS

No work can be performed, and no contracts can be let prior to having a fully executed project agreement, submittal of project plans to the Region and notification from the Region that advertisement for bids can be made, or, in the case of force account projects, work can begin.

A project agreement will be prepared and furnished to the County/City upon receipt of grant award letter signed by the Director or Governor. The Region will prepare and submit an F-7A Budget Allotment request upon receipt of a project funding agreement at the time it is submitted to the County/City for their execution.

The County/City will submit plans prepared and signed by a registered professional engineer showing work to be performed. Plans must match the project agreement description. It is not necessary for the Region to perform an in-depth review of plans. The County/City will submit a certification signed by a Registered Professional Engineer stating that the plans have been prepared so that all items included in the plans meet ALDOT specifications. The County/City will include a letter certifying that the County/City owns all right-of-way on which the project is to be constructed.

Upon receipt of the executed agreement, the executed F-7A, final plans from the County/City, and right-of-way certification, the Region may notify the County/City to proceed with advertising the project for letting or proceed with work in the case of a force account project.

In the case where a County/City is using an in place annual bid, the County/City will furnish the Region a copy of their bid and this bid price will be used for reimbursement.
Where the County/City is letting a contract locally, the County/City will furnish to the Region the three lowest bids with their recommendation for award. The Region will review the bids, and, if in order, advise the County/City to proceed with award of the contract to the lowest responsible bidder. The County's/City's estimate for reimbursement will be based on the bid prices concurred in by the State and supported with documentation that the contractor has been paid for work performed (copy of cancelled check).
A certification will be submitted with County/City final estimate stating that the project was constructed in accordance with final plans submitted to the State and with the specifications, supplemental specifications, and special provisions which were shown on the plans or with the State's latest specifications which were applicable at the time of plan approval.
The County/City will notify the Region when the project is complete and the Region will perform a final ride-through to determine whether the project was completed in substantial compliance with original final plans. Final acceptance will be made by the Region with a copy of the letter furnished to the Bureau of Local Transportation.
All required test reports, weigh tickets, material receipts and other project documentation required by the specifications, applicable supplemental specifications, and special provisions will be retained by the County/City for a period of three (3) years following receipt of final payment and made available for audit by the State upon request. If an audit is performed and proper documentation is not available to verify quantities and compliance with specifications, the County/City will refund the project cost to the State or do whatever is necessary to correct the project at their cost.
All County/City Industrial Access or State funded projects let to contract by the State will follow normal project procedures and comply with all current plan processing requirements.

Next, Mr. Hardee requested final plat approval of a subdivision plat for Crowder Properties, LLC. Mr. Hardee said the subdivision is located in District 4, with seven lots bring created from one parcel. Mr. Hardee said adjoining landowners were mailed letters on March 28, 2024 and questioned if anyone was in attendance on the matter. Judge English noted no one was in attendance on the matter. Commissioner Langley made a motion, seconded by Commissioner Long, to approve the final plat for a subdivision for Crowder Properties, LLC as presented. The motion passed unanimously.

Next, Mr. Hardee presented final plat approval for Hornet Hills Subdivision. Mr. Hardee said the subdivision is located in District 5 with 10 lots. Mr. Hardee said letters were mailed to adjacent homeowners and questioned if anyone was in attendance. Ms. Jenetta Baker appeared to speak on the matter. Ms. Baker said she and her husband Tony Baker own three lots that back up to the subdivision and she was concerned due to the recent rain, saying the land gets really wet, whether the grading of the property would cause water to come over into her lots. Mr. Hardee said it should not cause an issue if the contractor is using best construction practices. Commissioner LaGrand made a motion to table the item until the next meeting to research it further. The motion was seconded by Commissioner Langley and the motion passed unanimously.

Mr. Hardee presented the results of the FY2024 Local Resurfacing bid for approximately 7.5 miles of road resurfacing. Mr. Hardee said only one bid was returned from D & J Enterprises and said it fell within the anticipated price bracket so he would recommend award of the bid to them. Commissioner Cannon made a motion, seconded by Commissioner Morris, to award the 2024 Local Resurfacing Bid for Project #LCP 41-RALR-24 to D&J Enterprises for $2,363,066.25. The motion carried unanimously.

Last, Legislative Liaison/Safety Coordinator Wendy Swann presented a request to authorize Judge English to sign the formula allocation for energy efficient projects for the Justice Center Renovation Project. Mrs. Swann said it mainly covers energy efficient LED lighting to be used on the JC renovation project. Mrs. Swann said there were no qualifications, you only had to apply for the funds. Commissioner Langley made a motion, seconded by Commissioner Cannon to authorize Judge English to sign the necessary paperwork for the EECBG Grant Allocation. The motion carried unanimously.

At approximately 6:38 p.m. Commissioner Cannon made a motion to adjourn. The motion was seconded by Commissioner Morris and carried unanimously.