

RESOLUTION 2001 - 114

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A TEN YEAR AGREEMENT FOR MAINTENANCE WITH THE STATE DEPARTMENT OF TRANSPORTATION FOR THE COUNTY MAINTENANCE OF THE IMPROVED BOAT LAUNCHING RAMP AND LANDSCAPED ACCESS ROAD AT DEEP CREEK PARALLEL TO STATE ROAD 207.

WHEREAS, the Deep Creek launching area at State Road 207 has been used for many years by boaters and fishermen and is one of the only access sites to Deep Creek; and

WHEREAS, this informal ramp area is unimproved and provides great difficulty in launching and parking; and

WHEREAS, the State Department of Transportation has stated that they will stabilize, landscape and improve this launching area, which is on DOT property, if St. Johns County will enter into an Agreement for Maintenance; and,

WHEREAS, the State Department of Transportation has indicated that this project will be dropped from their overall State Road 207 widening project if no Agreement for Maintenance is signed; and

WHEREAS, the St. Johns County Department of Recreation and Parks wishes to continue to improve and offer boat launching access points in consistency with the Recreation and Open Space Element of the Comprehensive Plan ;and,

WHEREAS, the St. Johns County Department of Recreation and Parks will incorporate the maintenance of this area into its routine park maintenance schedule so as to incur no additional expense to the County,

NOW THEREFORE BE IT RESOLVED that:

The County Administrator is authorized to execute the Agreement for Maintenance between St. Johns County and the State Department of Transportation accepting maintenance responsibilities for the shell base access road and landscaping between Station 45 +00.000 and Station 43 +40.000 as described on the Florida Department of Transportation Plan and Profile Sheet 51, State Project Number 78050-3526.

PASSED AND ADOPTED THIS 5th DAY OF June, 2001

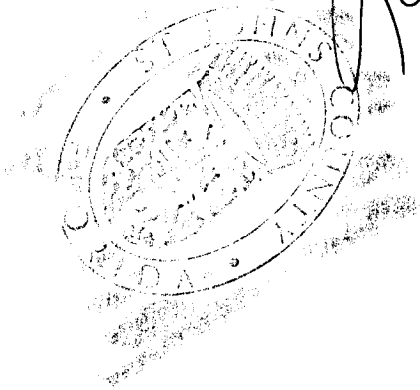
BOARD OF COUNTY COMMISSIONERS

By Mary J. Lehner
Its Chair

ATTESTED: CHERYL STRICKLAND, CLERK

By

Renora S. Newsome
Deputy Clerk



AGREEMENT FOR MAINTENANCE

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

WITNESSETH:

WHEREAS; the AGENCY by Resolution No. 2001-114 dated June 5, 2001, attached hereto and made a part hereof as Attachment "B" desires to enter into this Agreement and designates an official to execute the Agreement

WHEREAS; the DEPARTMENT'S standard landscaping design is grass, sod, and mitigated trees; and

WHEREAS; the DEPARTMENT'S Maintenance Department has neither staff nor budget to maintain non-standard aesthetic highway landscaping projects; and

WHEREAS; the AGENCY is requesting the DEPARTMENT to proceed with the design and installation of non-standard aesthetic landscaping on State Road Number _____ from mile post _____ to mile post _____; and

WHEREAS; the DEPARTMENT will design and install such non-standard aesthetic landscaping on the state road construction project as requested by the AGENCY and specifically agreed to by the DEPARTMENT; and

WHEREAS; the DEPARTMENT estimates that the cost of designing and constructing the requested non-standard aesthetic landscaping to be \$ _____; and

WHEREAS; the AGENCY agrees to maintain such non-standard aesthetic landscaping to a minimum standard so as to meet the Maintenance Rating Program's (MRP) desired rating of 80 regarding said non-standard aesthetic landscaping during the term of this Agreement; and

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

1. The AGENCY shall appoint a representative for the administration of this Agreement. The AGENCY representative will be the "contact" for the DEPARTMENT'S local Maintenance Engineer and/or his/her representative concerning all aspects of this Agreement, including communications with the public and/or political officials. The AGENCY shall be responsible for maintenance of all landscaped and/or turfed areas within DEPARTMENT right-of-way having limits identified in Attachment "A". The AGENCY shall be responsible for the maintenance of traffic during all operations covered by this Agreement, in accordance with Part VI of the Manual on Uniform Traffic Control Devices

and the current Roadway and Bridge Design Standards and any other applicable standards. For the purpose of this Agreement, unless otherwise noted in Attachment "A", the locations to be maintained by the AGENCY shall be maintained to a minimum standard so as to meet the Maintenance Rating Program's (MRP) desired rating of 80. Should any item of maintenance fall below the desired rating, the AGENCY agrees to immediately concentrate efforts and to bring the deficient item up to a minimum MRP rating of 80. The AGENCY will not be responsible for a below 80 rating if the cause and effect is not due to neglect by the AGENCY.

2. The AGENCY shall, within the right-of-ways identified in Attachment "A", accomplish the following during the term of this Agreement:
 - A. Mow, cut and/or trim the grass or turf (includes total greenscape) in accordance with State of Florida "Guide for Roadside Mowing" (1990) and any amendments thereto.
 - B. Prune all plants which includes:
 - (1) Trimming trees
 - (2) Pruning such parts thereof which may present a visual or other safety hazard for those using or intending to use the right of way
 - C. Remove dead, diseased or otherwise deteriorated plants.
 - D. Keep litter removed from the right-of-way.
 - E. Remove and dispose of all trimmings, roots, litter, etc. resulting from the activities described herein.
 - F. Edge and sweep any excess grass from sidewalks, curbs and gutters.
 - G. Sweep roadways, curbs and gutters, valley gutters, intersections and barrier wall gutters.
3. The AGENCY and the DEPARTMENT shall be responsible jointly for clean-up, removal and disposal of debris from DEPARTMENT right-so-ways described by Attachment "A", or subsequent amended limits mutually agreed to in writing by both parties, following a natural disaster (i.e. hurricane, tornadoes, etc.).
4. To the extent permitted by law, the AGENCY covenants and agrees that it will indemnify and hold harmless DEPARTMENT and all of DEPARTMENT'S officers, agents and employees, from any claim, loss, damage, cost or charge of expense arising out of any act, action, neglect or omission by AGENCY during the performance of this Agreement, whether direct or indirect, and whether to any person or property to which DEPARTMENT or said parties may be subject, except that neither AGENCY nor any of its agents or contractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of DEPARTMENT or any of its officers, agents or employees.
5. If, at any time during the term of this Agreement, it shall come to the attention of the DEPARTMENT'S District Secretary that the AGENCY is not performing its maintenance and other responsibilities under this Agreement, said District Secretary may at his option issue a written notice that a deficiency or deficiencies exist(s), by sending a certified letter to the AGENCY, to place said AGENCY on notice thereof. Therefore, the AGENCY shall have a period of thirty (30) calendar days within which to correct the cited deficiencies. If

said deficiencies are not corrected within this time period, the DEPARTMENT may at its option, proceed as follows:

- A. Maintain the landscaping or a part thereof and correct the listed deficiencies within DEPARTMENT or contractor's personnel and invoice the AGENCY for expenses incurred, or
- B. Terminate the Agreement in accordance with Paragraph 7 of this Agreement and remove, by DEPARTMENT or contractor's personnel, all of the non-standard aesthetic landscaping installed under this Agreement, install standard landscaping, and charge the AGENCY the reasonable cost of such removal and reinstallation.
- C. The District Secretary's interpretation shall be final.

The obligation of the AGENCY to reimburse the DEPARTMENT under this item five (5) shall be deemed to survive the termination of this Agreement for any reason, including, but not limited to, mutual termination as provided in item seven (7) (B).

6. It is understood between the parties that all areas and landscaping covered by this Agreement may be deleted, removed, relocated, or adjusted at any time in the future as found necessary by the DEPARTMENT in order that the adjacent state road be widened, altered or otherwise changed and maintained to meet the future criteria or planning of the DEPARTMENT.
7. This Agreement or part thereof is subject to termination under any one of the following conditions:
 - A. The conditions contained in paragraphs five (5), six (6), and nine (9) of this Agreement.
 - B. Upon thirty (30) days written notice or in the event termination is requested by the AGENCY, the AGENCY shall remain obligated to reimburse the DEPARTMENT for its maintenance costs for the unexpired term of this Agreement under item (5)(A) or (5)(B) at the option of the DEPARTMENT.
 - C. In the event the Agreement is terminated for the reason of failure to perform by the AGENCY, the AGENCY shall remain obligated to reimburse the DEPARTMENT.
8. The term of this Agreement shall be for a period of ten (10) years, commencing on the date a written notice to proceed is issued to the AGENCY by the DEPARTMENT'S District Maintenance Engineer.
9. To the extent this Agreement extends beyond the DEPARTMENT's current fiscal year, the AGENCY and DEPARTMENT mutually agree that the DEPARTMENT's performance during subsequent fiscal periods is contingent upon funds being appropriated, allocated, or otherwise made available by the legislature.

Therefore, Section 339.135(6)(a), Florida Statutes (1995), is applicable to this Agreement which states as follows: - The DEPARTMENT, during any fiscal year, may not expend money, incur any liability, or enter into any contract which, by its terms involves the expenditures of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this

subsection shall be null and void, and no money shall be paid thereon. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for a period exceeding one (1) year, but any contract so made shall be executory only for the succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT in excess of \$25,000.00 and having a term for a period of more than one (1) year.

10. The AGENCY shall not have authority to add any landscaping to any of the DEPARTMENT'S right-of-ways without first making written application to the DEPARTMENT and receiving written approval from the DEPARTMENT pursuant to the terms of this Paragraph 10. All requests and approvals shall be deemed to have been made and given in agreement with and subject to the conditions set forth below:
 - A. Plans for any new landscaping shall be subject to prior written approval by the DEPARTMENT'S local Maintenance Engineer. The AGENCY shall not change or deviate from said approved plans without prior written approval from the Maintenance Engineer.
 - B. All landscaping shall be developed and implemented in accordance with appropriate state safety and road design standards.
 - C. The AGENCY agrees to complete, execute and comply with all applicable joint application, insurance forms and permitting requirements of the DEPARTMENT related to construction and maintenance of additional landscaping on the DEPARTMENT'S right-of-ways.
 - D. The AGENCY agrees that it shall not be entitled to receive nor shall the DEPARTMENT be required to pay any payments due to any additional landscaping that may be added pursuant to this provision, including, but not limited to, any increase in the cost incurred by the AGENCY to install, maintain, or remove the added landscaping during the term of this Agreement, and any renewal thereof, and/or subsequent to this Agreement's termination for any reason.
 - E. The AGENCY agrees to be solely responsible for the installation, continuing maintenance and/or any removal and or restoration of any approved additional landscaping, without cost to the DEPARTMENT, pursuant to the requirements and standards established by this Agreement, during the term of this Agreement and as it may be later renewed and for such additional period, upon the expiration or termination of this Agreement, as said additional landscaping remains on the DEPARTMENT'S right-of-way. This Agreement being deemed to survive its expiration and/or termination as to any additional landscaping added pursuant to this item ten (10).
11. This writing embodies the entire Agreement and understanding between the parties hereto and there are no other prior agreements or understandings, oral or written with reference to the subject matter thereof that are not merged herein and superseded hereby.
12. This Agreement is nontransferable and nonassignable in whole or part without the written consent of the DEPARTMENT.

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

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

AGENCY _____

By: _____
Mayor (or person authorized by duly
adopted resolution)
Title: _____

(SEAL)

ATTEST: _____ (SEAL)
CLERK

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
District Secretary

ATTEST: _____
Executive Secretary

Executed/Agreement Effective
Date _____

FOR DEPARTMENT USE ONLY

APPROVED AS TO FORM AND LEGALITY

Attorney, Department of Transportation