

INTERGOVERNMENTAL SERVICE AGREEMENT

This Intergovernmental Service Agreement (“Agreement”) is entered into by and between the Baldwin County Commission (hereinafter “County”) and the City of Foley, Alabama (hereinafter “City”), as follows:

RECITALS

Whereas, County is the duly formed governing body in and for Baldwin County, Alabama, and City is an incorporated municipality of the State of Alabama; and

Whereas, County and City are authorized under Alabama law to control, manage, supervise, regulate, repair, maintain, and improve (hereinafter collectively “control”) certain public roads inside their respective jurisdictions; and

Whereas, County and City acknowledge and agree that the County currently maintains County Road 20 from South Hickory Street East to 450 feet West of South Pine Street (approximately 0.60 miles) and the City currently maintains County Road 20 from 450 Feet west of South Pine Street East to Alabama Highway 59 (approximately 0.40 miles); and

Whereas, County and City acknowledge and agree that County Road 20 from South Hickory Street East to Alabama Highway 59 is in need of certain widening and resurfacing improvements; and

Whereas, County desires to transfer to City the maintenance responsibility for County Road 20 from South Hickory Street East to 450 feet West of South Pine Street at the conclusion of the work to perform these improvements; and

Whereas, County has been approved by the Alabama Department of Transportation for an Alabama Transportation Rehabilitation and Improvement Program (ATRIP) grant that will help fund a County Road 20 Widening and Resurfacing ATRIP Project (“the County Road 20 Project”); and

Whereas, City and the County have agreed to an equitable division of the labor, administration, and the responsibility for the local matching funds of the County Road 20 Project; and

Whereas, City agrees to accept maintenance of Country Road 20 from 450 Feet West of South Pine Street West to South Hickory Street (approximately 0.60 miles) once the County Road 20 improvements have been completed; and

Whereas, County and City now wish to enter into this Agreement to provide for their joint cooperation to fund the preliminary engineering and matching costs for a County Road 20 Widening and Resurfacing ATRIP Project; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the sufficiency of which being hereby acknowledged, County and City do hereby agree as follows:

1. **Recitals:** The recitals set out above are incorporated into this Agreement, as though the same were set out in full in this paragraph.
2. **Purpose:** The parties acknowledge and agree that the purpose of this Agreement is to document and define the parties’ respective rights, duties and obligations with respect to the County Road 20 Project.

3. City Remains Owner of Right-of-Way: City, at all times including during the effective term of this Agreement and thereafter, shall retain exclusive responsibility for and control over County Road 20. The County obtains no rights, responsibilities or control for the subject road and rights-of-way as a result of the duties and/or obligations contained anywhere herein either during or following the effective term of this Agreement.

4. No Joint Ownership of Property: The parties acknowledge and agree that they will not jointly acquire, own, or otherwise come into joint or common possession of any property as a result of or in relation to this Agreement.

5. Financing and Budgeting: Each party shall be responsible for financing the obligations undertaken by that party hereunder, and shall not be responsible for financing, or in any other manner contributing to the actual costs or expenses of the obligations undertaken by the other party unless expressly identified herein.

6. Approval and Effective Date: This Agreement shall become effective upon the date of full execution by both parties ("Effective Date").

7. Term: The term of this Agreement shall be for twenty-four (24) months from its Effective Date. This document may be amended only upon written approval by the Parties hereto, and any such amendment shall be approved by the same method by which this original Agreement has been approved by the Parties.

8. Services to be Performed by County (the Project):

A. Comply with all necessary local, State and Federal rules, regulations and laws applicable to this Agreement and the ATRIP grant; and

B. Construct and pay for the County Road 20 improvements in accordance with the ATRIP grant and the plans and specifications attached hereto as Exhibit "A"; and

C. Invoice the City for the monies that the City is agreeing to pay below.

9. Services to be Performed by City:

A. City agrees in Fiscal Year 2013 to reimburse the County for preliminary engineering and survey services performed by Volkert for the County up to a maximum of \$165,846.00; and

B. City agrees in Fiscal Year 2014 that, after the County has spent \$195,000.00 for Construction Costs, Construction Engineering & Inspection, and utility Relocation for the County Road 20 Widening and Resurfacing ATRIP Project, the City will reimburse the County up to \$263,672, for Construction Costs (\$71,205.00), Construction Engineering & Inspection (\$26,621), and one-half (1/2) of the utility Relocation costs incurred by the County in the County Road 20 Widening and Resurfacing ATRIP Project; and

C. City agrees that it will reimburse the County one-half (1/2) of the amount the County spends on any additional Construction Costs, Construction Engineering & Inspection, utility Relocation, and any overruns and unknowns during construction that exceed the project bid amount that are not covered by ATRIP; and

D. City agrees to accept maintenance of County Road 20 from 450 Feet West of South Pine Street West to South Hickory Street (approximately 0.60 miles) upon the completion of the County Road 20 Widening and Resurfacing ATRIP project.

10. **Indemnity:** The City accepts the improvement, work, property, product, funds and services of the County as a result of the Project in its "WHERE IS", "AS IS", condition and acknowledges that the County has made no representation or warranty to the City as to, and has no obligation for the condition of the improvements, work, property, product, funds and services of the County. However, nothing contained herein shall prevent either party from good faith performance of the services to be performed under the terms of this agreement including without limitation the remediation or correction of any work or services performed by either party hereunder. The City assumes the risk of any latent or patent defects or problems that are or may be contained in the improvements, work, property, product, funds and services of the County or City. The City agrees that the County shall not be liable for any injury, loss or damage on account of any such defects or problems. The City for itself and City Representatives waive and release the County from any claims for injury to persons or damage to the personal property by reason of the condition of the improvements, work, property, product, funds and services of the County or otherwise.

Furthermore, the City shall defend, indemnify, and hold the County harmless from and against all demands, actions, and claims of any description whatsoever, for property damage, personal injury (including death), actions in trespass, and all other claimed loss, injury or damage, including, but not limited to, attorneys' fees and costs, arising out of, relating to, or resulting from any and all acts or omissions in relation to the obligations hereunder.

The above provisions contained in this section 11 shall not apply to any private contractor or subcontractor performing improvements or work on behalf of the County and, to the extent not exclusive of the County, the City shall be entitled to the benefit of all warranties, representations and legal or equitable rights available to it, or available to the County, under Alabama law or pursuant to the terms of all agreements between such private contractor or subcontractor and the County.

All guarantees, duties, representations, assurances, without limitation, contained within this Agreement shall survive and exist beyond the date of termination or expiration of this Agreement, and time, or the lapse thereof, shall not be used for, or argued as a defense for the City, against the same.

Nothing contained herein shall be construed to limit or modify the laws of Alabama as the same may apply to the County or City or in any way diminish any immunity, absolute or qualified, to which the County and City are otherwise entitled by law.

11. **Entire Agreement:** This Agreement represents the entire and integrated agreement between County and City and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by the parties.

12. **Both Parties Contributed Equally to the Agreement.** This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both County and City have contributed substantially and materially to the preparation of this Agreement.

13. **Failure to Strictly Enforce Performance:** The failure of either party to insist upon the strict performance of any of the terms, covenants, agreements and conditions of this Agreement shall not constitute a default or be construed as a waiver or relinquishment of the right of a party to thereafter enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect.

14. **Assignment:** Neither this Agreement nor any interest herein shall be assigned, transferred or otherwise encumbered without a prior written agreement providing for such assignment, transfer, or other encumbrance, signed by the parties.

15. **Choice of Law:** The parties acknowledge and agree that this Agreement shall in all respects be governed by the laws of the state of Alabama, including without limitation all issues relating to capacity, formation, interpretation, and available remedies, without regard to Alabama conflict of law principles.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of full execution below.

COUNTY:
BALDWIN COUNTY

ATTEST:

BY: _____/_____
J. Tucker Dorsey /Date
Chairman

_____/_____
David A. Z. Brewer / Date
County Administrator

CITY:
THE CITY OF FOLEY

ATTEST:

BY: _____/_____
John Koniar /Date
Mayor

_____/_____
Vickey Southern / Date
City Clerk

State of Alabama)
County of Baldwin)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that J. TUCKER DORSEY, as Chairman of the Baldwin County Commission, and DAVID A. Z. BREWER, County Administrator of the Baldwin County Commission, whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, they, as such officers and with full authority, executed the same voluntarily for and as the act of said Baldwin County Commission.

Given under my hand and official seal, this the day of _____, 2013.

Notary Public

My Commission Expires: _____

State of Alabama)
County of Baldwin)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that, John Koniar, as Mayor of the City of Foley, and Vickey Southern, as City Clerk of the City of Foley, whose name are signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, they, as such officers and with full authority, executed the same voluntarily for and as the act of said City of Foley.

Given under my hand and official seal, this the day of _____, 2013.

Notary Public

My Commission Expires: _____

RESOLUTION NO. 13-0014

APPROVING ATRIP FUNDING PARTICIPATION WITH BALDWIN COUNTY

WHEREAS, the City of Foley approves Resolution 13-0014, approves the Baldwin County Commission and Baldwin County Highway Department to prepare and submit an application for ATRIP Phase 2 funding, and

WHEREAS, Baldwin County Commission is ready to partner with the City for improvements on County Road 20 between Alabama Highway 59 and South Hickory Street, and

WHEREAS, if the project is approved by the State, and upon completion of the project, the City will assume maintenance cost, activities, etc. of this portion of roadway, and

WHEREAS, the construction estimate for the project, including construction, design, environmental, and CE&I is \$1,629,974.00

NOW THEREFORE BE IT RESOLVED the City Council of the City of Foley, Alabama, as follows:

SECTION 1: If approved by the State, approves ATRIP funding participation with the City's in the amount of \$263,672 and if approved by the State, Baldwin County's portion to be provided in Fiscal Year 2014 in the amount of \$195,000.00 for County Road 20 improvements between Alabama 59 and South Hickory Street.

SECTION 2: If approved by the State, the Baldwin County Commission will be the lead agency and the City of Foley will provide the Baldwin County Commission funding in Fiscal Year 2013, in the amount of \$165,846.00 for the Preliminary Engineering to be performed by Volkert.

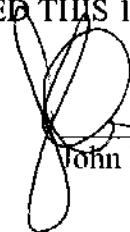
SECTION 3: This Resolution shall become effective immediately upon its adoption as required by law.

PASSED, ADOPTED, AND APPROVED THIS 1st day of October, 2012.



WITNESSETH:

Victoria Southern Date: 10-2-12
Victoria Southern, CMC
City Clerk



John E. Koniar, Mayor

AGENDA REQUEST FORM

DATE OF WORK SESSION: 10-1-12DATE OF COUNCIL MEETING: 10-1-12DEPARTMENT AND PERSON SUBMITTING ITEM: ENGINEERING, BUTCH STOKESDESCRIPTION OF TOPIC: (who, what, when, where, why, and how much)

REQUEST COUNCIL TO APPROVE ATRIP FUNDING PARTICIPATION IN THE AMOUNT OF \$263,672.00, WITH BALDWIN COUNTY'S PARTICIPATION OF \$195,000.00 FOR THE COUNTY ROAD 20 IMPROVEMENTS BETWEEN HIGHWAY 59 AND SOUTH HICKORY STREET.

DESCRIPTION FOR PUBLISHED AGENDA:

REQUEST COUNCIL TO APPROVE ATRIP FUNDING PARTICIPATION FOR THE COUNTY ROAD 20 IMPROVEMENTS BETWEEN HIGHWAY 59 AND SOUTH HICKORY STREET.

IS DOCUMENTATION ATTACHED (See attached list): ☒ Yes ☐ NoIf item was previously approved under a Resolution or Ordinance have you included the number in the documentation? ☒ Yes ☐ No ☐ N/AIs a copy of the Resolution/Ordinance attached? ☒ Yes ☐ No ☐ N/ASOURCE OF FUNDING:Please provide the amount requested: \$263,672.00Is this a budgeted item? ☐ Yes ☒ No ☐ N/A

Please provide the budgeted amount: \$ _____ Account No. _____

If budgeted, is this a capital purchase, capital project, or special fund? _____

Was this item included in the Fiscal Year Capital Projects Plan? ☐ Yes ☒ No ☐ N/A

If yes, please provide the amount included in Capital Projects Plan: \$ _____

=====Do Not Write Below This Line=====

Verified by the Finance Department:

Reviewed by: _____ Date: _____

Clerk's Office: Received by: _____ Date: _____ Time: _____



Official
City of Foley
Email

Angela Cooper <acooper@cityoffoley.org>

ATRIP Funding -- County Road 20 Improvements between Highway 59 and South Hickory

1 message

Butch Stokes <bstokes@cityoffoley.org>

Mon, Sep 24, 2012 at 11:54 AM

To: Cal Markert <CMarkert@baldwincountyal.gov>

Cc: "Lawrence A. Wilson" <LAWILSON@baldwincountyal.gov>, John Koniar <koniar@gulftel.com>, Michael Thompson <mthompson@cityoffoley.org>, "Charles F. \"Skip\" Gruber" <cgruber@baldwincountyal.gov>, Ralph Hellmich <rhellmich@cityoffoley.org>, "Dickson, Jay" <jdickson@volkert.com>

Bcc: acooper@cityoffoley.org

Cal,

I've been authorized to offer the following relative to the proposed ATRIP funding application for the above referenced portion of County Road 20:

Based upon the Volkert total estimate which includes: construction, survey, design, CE & I: \$1,629,974

Estimated Proposed ATRIP funds applicable: \$1,171,302

Baldwin County participation: \$195,000

City of Foley participation: \$263,672

--

Wendell F. "Butch" Stokes, P.E

City Engineer

200 North Alston Street

Post Office Box 1750

Foley, Alabama 36356

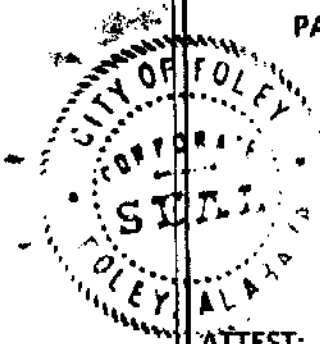
Telephone: (251) 970-1104

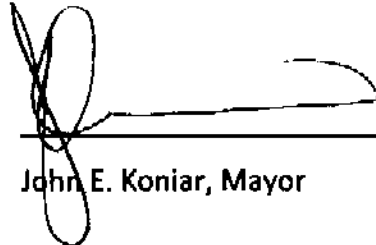
Fax: (251) 970-2398

APPROVING ATRIP GRANT APPLICATION

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Foley, Alabama, approves Volkert to make application for Phase I ATRIP grant funds to include "windshield study" work and writing the grant. This Resolution shall become effective immediately upon its adoption as required by law.

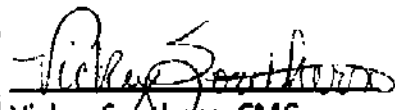
PASSED, ADOPTED AND APPROVED THIS 19th day of March, 2012.





John E. Koniar, Mayor

ATTEST:



Vickey Southern, CMC
City Clerk

DATE OF COUNCIL MEETING: 3-19-12

DEPARTMENT AND PERSON SUBMITTING ITEM: ENGINEERING, BUTCH STOKES

DESCRIPTION OF TOPIC: (who, what, when, where, why, and how much)

DISCUSS ATRIP PROJECT.

DESCRIPTION FOR PUBLISHED AGENDA:

DISCUSS ATRIP PROJECT.

IS DOCUMENTATION ATTACHED (See attached list): ☐ Yes ☒ No

If item was previously approved under a Resolution or Ordinance have you included the number in the documentation? ☐ Yes ☐ No ☒ N/A

Is a copy of the Resolution/Ordinance attached? ☐ Yes ☐ No ☒ N/A

SOURCE OF FUNDING:

Please provide the amount requested: _____

Is this a budgeted item? ☐ Yes ☐ No ☒ N/A

Please provide the budgeted amount: \$ _____ Account No. _____

If budgeted, is this a capital purchase, capital project, or special fund? _____

Was this item included in the Fiscal Year Capital Projects Plan? ☐ Yes ☐ No ☒ N/A

If yes, please provide the amount included in Capital Projects Plan: \$ _____

=====Do Not Write Below This Line=====

Verified by the Finance Department:

Reviewed by: N/A Date: _____

Clerk's Office: Received by: VS Date: 3-13-12 Time: 1:13

MET 3/14/12

April 5, 2012

Fax 251.968.2318
foley@volkert.com

The City of Foley
Attn: Honorable Mayor John Koniar
P.O. Box 1750
Foley, AL 36536

www.volkert.com

RE: Alabama Transportation and Rehabilitation Program (ATRIP)

Dear Mayor Koniar:

As discussed Volkert Inc. will assist the City of Foley in preparing applications for projects related to the Alabama Rehabilitation and Improvement Program, ATRIP. The general program promotes improvements to local arterial and collector streets. The assistance may include reviewing potential projects for qualifications, performing field and map reviews, developing cost estimates, meeting with the city to review, completing applications and submitting to the Alabama Department of Transportation.

We look forward to assisting the city in these endeavors and if you have any questions please advise.

Sincerely,

VOLKERT, INC.



Steve R. Commander, P.E.
Vice President

SRC/cw

Office Locations:

Birmingham, Foley, Huntsville, Mobile, Alabama • Gainesville, Orlando, Pensacola, Tampa, Florida • Atlanta, Georgia
Collinsville, Illinois • Baton Rouge, Slidell, Louisiana • Biloxi, Mississippi • Jefferson City, Missouri • Raleigh, North Carolina
Chattanooga, Tennessee • Alexandria, Virginia • Washington, D.C.



Wendell F. "Butch" Stokes, P.E.

City Engineer

200 North Alston Street

Foley, Alabama 36535

bstokes@cityoffoley.org

From: Vickey Southern [mailto:vsouthern@cityoffoley.org]

Sent: Tuesday, April 03, 2012 3:38 PM

To: Bonnie Donaldson; Brandy Delsner Springsteen; Chief Joseph Darby; Dan Hellmich; David Thompson; David Wilson; Jefferson C. Rouzie; Jessica Nelson; Joe Bouzan; LaDonna Hinesley; Mark McKenzie; Meg Hellmich; Michael Thompson; Miriam Boutwell; Pam Harris; Sandra Pate; Steve Horn; Sue Steigerwald; Wendell 'Butch' Stokes; Angela Cooper; Chad Brewer; Deena Townsend; Karen Childress; Kate Norris; Leslie Lassitter; Rachel Keith; Randy Bishop; Randy Kurtts; Sue Sutton; Theresa Dillon

Subject: 04-02-12 Resolutions

[Quoted text hidden]

 **NAPA_ Bungalows.pdf**
350K

Vickey Southern <vsouthern@cityoffoley.org>

Tue, Apr 3, 2012 at 5:05 PM

To: Butch Stokes <bstokes@cityoffoley.org>

Thank you... Also never received any backup on the one from the last meeting. You might want to follow up with Volkert on the ATRIP item.

[Quoted text hidden]

Butch Stokes <bstokes@cityoffoley.org>

Wed, Apr 4, 2012 at 8:54 AM

To: Vickey Southern <vsouthern@cityoffoley.org>

Vickey,

Forget about the ATRIP backup documentation. Because Baldwin County did not partner with the City for submitting CR20 for the Phase I submittals, we won't be submitting anything for Phase I ATRIP funding.

Wendell F. "Butch" Stokes, P.E.

From: Vickey Southern [mailto:vsouthern@cityoffoley.org]
Sent: Tuesday, April 03, 2012 5:06 PM
To: Butch Stokes
Subject: Re: 04-02-12 Resolutions

[Quoted text hidden]

Vickey Southern <vsouthern@cityoffoley.org>
To: Butch Stokes <bstokes@cityoffoley.org>

Wed, Apr 4, 2012 at 10:11 AM

Butch

Easier said than done. Once the Council has approved something it needs to be in writing. We can then rescind. But for this exercise I need something for backup the approval.

[Quoted text hidden]

Vickey Southern <vsouthern@cityoffoley.org>
To: Butch Stokes <bstokes@cityoffoley.org>

Wed, Apr 4, 2012 at 10:50 AM

Butch

What account number is this coming out of?

[Quoted text hidden]

Butch Stokes <bstokes@cityoffoley.org>
To: Vickey Southern <vsouthern@cityoffoley.org>

Wed, Apr 4, 2012 at 12:21 PM

There was no money it went from a discussion item, to an approval by the Mayor/Council for Volkert to proceed with making an application for submitting an application for Phase I funding for Phase I ATRIP funds. It involved them doing a little "windshield study" work and writing the grant - which was a letter outlining the project components fit with the goals listed in the ATRIP grant outline. Then, from this rudimentary work, IF we got the grant, they would do the work.

Wendell F. "Butch" Stokes, P.E.

City Engineer

200 North Alston Street

Foley, Alabama 36535

bstokes@cityoffoley.org

From: Vickey Southern [mailto:vsouthern@cityoffoley.org]
Sent: Wednesday, April 04, 2012 10:51 AM

[Quoted text hidden]

[Quoted text hidden]