

AGREEMENT
FOR
ADMINISTERING U.S. DEPARTMENT OF TRANSPORTATION
FINANCIAL ASSISTANCE FOR TRANSPORTATION PLANNING
BETWEEN
THE STATE OF ALABAMA
AND THE
CITY OF DECATUR, ALABAMA

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BETWEEN
THE STATE OF ALABAMA
AND THE
CITY OF DECATUR, ALABAMA

This Agreement made and entered into by and between the State of Alabama, acting through the Alabama Department of Transportation, hereinafter referred to as STATE; and the City of Decatur, Alabama, hereinafter referred to as CITY; in cooperation with the U.S. Department of Transportation, the Federal Highway Administration, hereinafter referred to as FHWA, and the Federal Transit Administration, hereinafter referred to as FTA; and

WHEREAS, 23 U.S.C. 134 and 49 U.S.C. 5303 require that each urbanized area have a comprehensive, cooperative, continuing transportation planning process (commonly referred to as the "3-C" Process); and

WHEREAS, 23 U.S.C. 104 (f) and 49 U.S.C. 5303 authorize certain funds (commonly referred to as FHWA Planning funds and FTA 5303 Planning funds, respectively) be made available to designated transportation planning agencies for supporting the "3-C" Process; and

WHEREAS, the City of Decatur has been selected by the Decatur Metropolitan Planning Organization as the designated transportation planning agency for the Decatur urbanized area; and

WHEREAS, the STATE receives funds from FHWA and FTA which include FHWA

planning funds and FTA 5303 Planning funds to be made available to the CITY for Transportation Planning for the Decatur urbanized area.

NOW, THEREFORE, the parties hereto, for, and in consideration of the premises stated herein, do hereby mutually promise, stipulate, and agree as follows:

- (1) The planning funds referred to herein will be FHWA Planning funds and FTA 5303 Planning funds that pass through the STATE to the CITY.
- (2) Any planning funds provided to the CITY under this Agreement will be used for transportation planning related activities and will be in accordance with the most current approved Unified Planning Work Program.
- (3) All costs for work performed under terms of this Agreement will be financed, when eligible for Federal participation, with Federal FHWA Planning and/or FTA 5303 Planning funds and matching funds provided by the CITY. No STATE funds will be used to finance work performed under terms of this Agreement.
- (4) It is understood that the work is to be done on an actual cost basis. Payment will not exceed the total estimated funds budgeted in the most current approved Unified Planning Work Program.
- (5) Any costs for work not eligible for Federal participation will be financed 100 percent by the CITY.
- (6) The CITY agrees that in the event the FHWA or FTA determines, due to rules and/or regulations of FHWA or FTA, that Federal funds must be refunded, the CITY will reimburse and pay to the STATE a sum of money equal to the total amount of Federal funds to be refunded to FHWA or FTA.
- (7) Any eligible costs incurred by the CITY on or after October 1, 2011, will be

reimbursable under this Agreement.

- (8) All work performed pursuant to this Agreement will be completed to the satisfaction of the STATE within the time frame established by the most current approved Unified Planning Work Program.
- (9) The CITY will be responsible for having an adequate accounting system, and the CITY must furnish to the STATE a copy of their approved cost allocation plan and indirect cost rate. The STATE will be charged with the responsibility of determining whether or not the CITY has an adequate accounting system. Such determination will be documented prior to payment of the first invoice.
- (10) The CITY may invoice the STATE not more frequently than monthly on forms furnished by the STATE for work performed under this Agreement. The CITY's final invoice for this Agreement must be received on or before December 31 of each year.
- (11) The CITY will abide by 49 CFR 18.26, and all provisions of OMB Circulars A-133, with respect to audit requirements, and 2 CFR 225, with respect to cost principles, and 48 CFR 31, and all attachments thereto, currently in force in performing work under the terms of this Agreement.
- (12) The use of planning funds by the CITY for out-of-state travel must be approved by the STATE two (2) weeks prior to the travel date.
- (13) The CITY will submit to the STATE, at such time as the STATE may require, such progress reports, financial statements, data, records, contracts, and other documents related to the project as may be deemed necessary by the STATE.
- (14) The CITY will permit the STATE, the Comptroller General of the United States,

and the Secretary of the United States Department of Transportation, or their authorized representatives, to inspect all relevant project data and records. The CITY will also permit the above-named persons to audit the books, records, and accounts of the CITY pertaining to the project as defined herein. The CITY will retain intact, for three (3) years following Federal Project closeout, all Project documents, and financial records and supporting documents. An audit will be performed on a yearly basis, in accordance with requirements of OMB Circular A-133. For Regional Planning Commissions, these audits may be done by a local CPA firm, if permission is obtained in writing from the Examiners of Public Accounts. The CITY will furnish a copy of the audit report to the Examiner of Public Accounts and two copies to the STATE. In addition, the CITY should submit along with their report a letter from their CPA setting out audit findings, whether material or immaterial that was not noted in their report. If there were no instances or findings other than those noted in the audit report, the CPA should issue a letter stating such. Furthermore, the CITY needs to maintain on file, within their office, a letter from their CPA stating the results of their peer review, whether favorable or unfavorable, as required by Government Auditing Standards (also known as the "Yellow Book").

- (15) The use of any planning funds provided herein for consultant services will be in accordance with the most current approved STATE consultant selection procedures.
- (16) The CITY will perform or have performed all services required to fulfill the purposes of this Agreement.

- (17) The CITY will not assign any portion of their 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 prior written authorization of the STATE. Any subcontract under this Agreement must include all required and/or applicable clauses and provisions of this Agreement.
- (18) If the CITY fails to fulfill in a timely, and proper manner its obligations as stipulated in this Agreement, or if the funds from FHWA and/or FTA under which this Agreement is made are terminated by FHWA or FTA, or if any party to this Agreement is unable to participate in the funding of costs as set forth herein, the STATE will have the right to terminate this contract by giving thirty (30) days prior written notice to the CITY of such termination and specifying the effective date thereof. Said notice will stipulate the reasons for termination and will be mailed by certified mail. If the CITY is unable or unwilling to comply with such additional conditions as may be lawfully imposed by the STATE or FHWA or FTA on the grant or agreement under which the CITY is performing, the CITY will have the right to terminate the agreement by giving thirty (30) days prior written notice to the STATE specifying the effective date thereof. Said notice shall stipulate the reasons for termination and will be mailed by certified mail. If termination necessitates disposal of property, all property will be disposed strictly in accordance with all STATE and Federal procedures. The CITY will be entitled to compensation for any unreimbursed eligible expenses incurred.
- (19) Any dispute concerning a question of fact in connection with the work not

disposed of by agreement between the CITY and the STATE, or otherwise arising between the parties to this Agreement, will be referred to the Director of the State Department of Transportation and the Chairman of the Metropolitan Planning Organization for a negotiated settlement.

- (20) Any documents or other printed material produced under this Agreement will be submitted to the STATE for proofreading and technical editing prior to their publication for final printing. A sufficient number of copies of such documents or other printed material, as mutually determined by the CITY and the STATE, will be published.
- (21) The purchase of all project equipment financed in whole or in part pursuant to this Agreement will be in accordance with STATE and Federal procedures, including normal STATE competitive bidding procedures, where appropriate. All nonexpendable purchases over fifteen hundred dollars (\$1,500.00) must be approved by the STATE in advance, in writing, to be eligible for reimbursement. The CITY must maintain a detailed inventory of equipment, financed in whole or in part with project funds, FHWA Planning funds and FTA 5303 Planning funds. A copy of this inventory must accompany the final invoice each year.
- (22) The CITY will be responsible at all times for all of the work performed under this Agreement and, the CITY will protect, defend, indemnify and hold harmless the State of Alabama, the Alabama Department of Transportation, the officials, officers, and employees, in both their official and individual capacities, and their agents and/or assigns, from and against any and all action, damages, claims, loss, liabilities, attorney's fees or expense whatsoever or any amount paid in

compromise thereof arising out of or connected with the work performed under this Agreement. By entering into this Agreement, the CITY is not an agent of the STATE, its officers, employees, agents or assigns. The CITY is an independent entity from the STATE and nothing in this Agreement creates an agency relationship between the parties.

- (23) No member of, or delegate to the Congress of the United States, will be allowed to any share or part of this contract or to any benefit arising there from.
- (24) No member, officer, or employee of the STATE or of a local public body during his tenure or one (1) year thereafter will have any interest, direct or indirect, in this contract or the proceeds thereof.
- (25) In connection with the execution of this Agreement, the CITY will not discriminate against any employee or applicant for employment because of age, disability, race, religion, color, sex, or national origin. The CITY will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during their employment, without regard to their race, religion, color, sex, or national origin. Such actions will 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. Furthermore, the STATE and the Secretary of the United States Department of Transportation, or their authorized representatives, will have full access to, and right to examine any materials available which will permit them to monitor the CITY for compliance with the provisions of this section.

(26) The CITY will support 49 CFR, Part 26, Disadvantaged Business

Enterprises (DBE), and it's objectives as specified below:

- a. Ensure nondiscrimination in the award and administration and DOT- assisted contracts in the Department's highway, transit and airport financial assistance programs;
- b. Create a level playing field on which DBEs can compete fairly for DOT- assisted contracts;
- c. Ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- d. Ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- e. Help remove barriers to the participation of DBEs in DOT-assisted contracts;
- f. Assist the development of firms that can compete successfully in the marketplace outside the DBE program;
- g. Provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs;
- h. The Alabama Department of Transportation has submitted to the U.S. Department of Transportation a Disadvantaged Business Enterprises Program. The recipient of funds under the terms of this Agreement agrees to either comply with the Department's DBE Plan or will prepare and submit for approval a DBE Plan meeting the requirements of 49 CFR, Part 26, prior to performance of any work under this Agreement; and
- i. 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 will 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.

- (27) The terms of this Agreement may be modified by supplemental agreement duly executed by the parties hereto.
- (28) The Agreement for administering FHWA Planning funds and FTA 5303 Planning funds between the CITY and the STATE executed on the 6th day of December 1994 is hereby made null and void.
- (29) Nothing will be construed under the terms of this Agreement by the STATE or the CITY that will cause any conflict with Section 23-1-63, Code of Alabama, 1975 (7/24th Law).

IN WITNESS WHEREOF, the parties hereto cause this Agreement to be executed by those officers, officials and persons thereunto duly authorized, and the agreement is deemed to be dated and to be effective on the date stated hereinafter as the date of approval of the Governor of Alabama.

ATTEST:

CITY OF DECATUR, ALABAMA

City Clerk (Signature)

BY: _____
Mayor (Signature)

Type name of Clerk

APPROVED AS TO FORM:

BY: _____
Chief Counsel, Jim R. Ippolito, Jr.

RECOMMENDED FOR APPROVAL:

Multimodal Transportation Engineer
Robert J. Jilla

Chief Engineer, D. W. Vaughn

STATE OF ALABAMA
ACTING BY AND THROUGH THE
ALABAMA DEPARTMENT OF TRANSPORTATION

Transportation Director, John R. Cooper

The foregoing Agreement is hereby approved by the Governor of the State of Alabama
this ____ day of _____, 20 ____.

GOVERNOR OF ALABAMA, ROBERT BENTLEY

RESOLUTION

WHEREAS, 23, U.S.C. 134 and 49 U.S.C. 5303 require that each urbanized area have a comprehensive, cooperative, continuing transportation planning process (commonly referred to as the "3-C" Process); and

WHEREAS, 23 U.S.C. 105 (f) and 49 U.S.C. 5303 authorize certain funds (commonly referred to as FHWA Planning funds and FTA 5303 Planning funds, respectively) be made available to designated transportation planning agencies for supporting the "3-C" Process; and

WHEREAS, the City of Decatur has been selected as the designated transportation planning agency for the Decatur urbanized area; and

WHEREAS, the State of Alabama receives funds from the Federal Highway Administration and the Federal Transit Administration which include FHWA Planning funds and FTA 5303 Planning funds to be made available to the designated agency for transportation planning for the Decatur urbanized area.

NOW, THEREFORE, be it resolved by the City Council of Decatur, Alabama, that the Mayor be authorized to execute, and the City Clerk be authorized to attest, an agreement with the State of Alabama for administering U.S. Department of Transportation Financial Assistance for Transportation Planning.

ATTESTED:

APPROVED:

City Clerk

Mayor, City of Decatur, Alabama

DATE:
