

Fourth Amendment to the Cooperative Intergovernmental Agreement between Beaufort County, South Carolina and The South Carolina Department of Transportation For The Beaufort County Transportation Sales and Use Tax Projects.

This Agreement, made this 30th day, of June, 2011, by and between the South Carolina Department of Transportation, hereinafter referred to as Department; and Beaufort County, hereinafter referred to as County; and

Witnesseth that:

WHEREAS, Department and County entered into, on March 18, 2008, a Cooperative Intergovernmental Agreement (hereinafter "IGA") included herein by reference and made a part hereof for the Beaufort County Transportation Sales and Use Tax Projects; and

WHEREAS, the Department and County on June 17, 2008 entered into a modification to the IGA identified as "PRE-16-08" for the purpose of providing SAFETEA-LU Earmark funding and to outline responsibilities for the parties herein for the widening of US 278 from Road S-474 to SC 170 near Bluffton; and

WHEREAS, the US 278 Improvements Project is listed on the IGA's "Attachment 'A' Project List"; and

WHEREAS, the Department and County on August 13, 2008 entered into a modification to the IGA identified as "Amendment No. 1" for the design, right of way acquisition, and construction of the William Hilton Parkway Re-Surfacing Priority #1 (from Whooping Crane Way to Shelter Cove Lane, approximately 3.56 miles) of the US 278 Improvements Project in Beaufort County, South Carolina; and

WHEREAS, the Department and County on October 17, 2008 entered into a modification to the IGA identified as "Amendment No. 2" to satisfy the funding for the award of the William Hilton Parkway Re-Surfacing Priority #1; and

WHEREAS, the Department and County on November 9, 2009 entered into a modification to the IGA identified as "Amendment No. 3" for the Department to assist County in the design, right of way acquisition, and construction of the William Hilton Parkway Re-Surfacing Priority #2 (from Shelter Cove Lane through Sea Pines Circle), Priority #3 (from Gumtree Road to

Whooping Crane Way), and a section between Karl Bowers Bridge and J. Wilton Graves Bridge, totaling approximately 5.09 miles of the US 278 Improvements Project in Beaufort County, South Carolina; and

WHEREAS, the County desires the Department to assist the County in the funding of the US 278 Improvements Project in Beaufort County, South Carolina, using Federal Match Program funds authorized by the Department's Commission on October 22, 2010 and SAFETEA-LU funding; and

WHEREAS, the Department and the County are agreeable to a fourth amendment to the IGA to accomplish the funding of the US 278 Improvements Project in Beaufort County; and

WHEREAS, County is a body politic with all the rights and privileges of such including the power to contract as a necessary and incidental power to carry out County's functions covered under this Third Amendment; and

WHEREAS, Department is an agency of the State of South Carolina with the authority to enter into contracts necessary for the proper discharge of its functions and duties; and

NOW THEREFORE, in consideration of the several promises to be faithfully performed by the parties hereto as set forth, Department and County do hereby agree as follows:

1. **Purpose:** This Fourth Amendment to the IGA is intended to amend the funding responsibilities of the parties hereto for the US 278 Improvements Project, from Simmonsville Road to SC 170, in Beaufort County, South Carolina (hereinafter "Project").
2. **Funding:**
 - (a) **SAFETEA-LU funding**
 - i. The Department's federal portion of the SAFETEA-LU Earmark has increased from the amount of \$12,802,000 addressed in PRE-16-08 to a maximum amount of **\$13,359,486.79**. Actual funding available from the SAFETEA-LU earmark is subject to future appropriation acts, rescissions, etc.
 - ii. The SAFETEA-LU Earmark funding represents the Federal Portion only and requires that a local match be made by the County. The County previously

paid in full the required match, in the amount of \$3,200,475.04, for the SAFETEA-LU earmark under PRE-16-08.

iii. The required match by the County for the additional SAFETEA-LU funding is \$139,396.70. The Department will invoice the County for \$139,396.70, and payment from the County will be due prior to receiving the construction bids on April 12, 2011.

iv. The Department will utilize the SAFETEA-LU funding prior to the additional funding source addressed in "b" below.

(b) Federal Match Program Funding

i. The Department's funding from the FY 2011 Federal Match Program is up to 50% of the construction cost funding shortfall (shortfall estimated at \$3,674,793.36), resulting in the Department estimated participation of \$1,837,396.68. The Department's maximum federal participation, as approved by the SCDOT Commission on October 22, 2010 is not to exceed \$5,000,000.

ii. The required match by the County for the Federal Match Program funds is estimated at \$1,837,396.68. The Department will invoice the County for \$1,837,396.68, and payment from the County will be due prior to receiving the construction bids on April 12, 2011.

iii. The ATTACHMENT A, attached hereto and specifically made a part hereof, is a construction cost spreadsheet that shows the anticipated construction budget and funding sources, and establishes the estimated shortfall as of the execution of this agreement. During the construction of the project, the Department will continually monitor and update the attached spreadsheet based on current project expenditures. In the event that additional payment is required from the County as match for 50% of the shortfall, the Department will provide the County with an updated cost summary and request for the additional 50% payment, and the County will make payment to the Department within 30 days. Overruns

above the Department's SAFETEA-LU funding and Federal Match Program funding in "a" and "b" above are the responsibility of the County.

3. Miscellaneous/General:

- (a) The ATTACHMENT B, attached hereto and specifically made a part hereof, is an excerpt from the STIP.
- (b) The Parties hereto agree that no part of the Project will be authorized until all funding necessary for that part, portion or phase has been accounted for by the Parties hereto and received by the Department
- (c) All provisions of the original IGA dated March 18, 2008, and any modifications or amendments thereto, except herein modified or changed shall remain in full force and effect.

PROJECT SUMMARY

This PROJECT SUMMARY section is for informational purposes only and does not reflect a continuation of services or an accumulation of costs.

<u>AGREEMENT</u>	<u>DATE</u>	<u>PROJECT</u>
Basic	March 18, 2008	Sales Tax
PRE-16-08	June 17, 2008	US 278 design/construction/funding from Road S-474 to SC 170
Amendment No. 1	August 13, 2008	William Hilton Pkway Priority #1 of the US 278 Improvements design/construction/funding
Amendment No. 2	October 17, 2008	Award Funding of William Hilton Pkway Priority #1
Amendment No. 3	November 9, 2009	William Hilton Pkway Priority #2 and Priority #3 of the US 278 Improvements design/construction/Funding
Amendment No. 4	<u>June 30, 2011</u>	US 278 Improvements Funding Federal Match Program & addl SAFETEA-LU funds


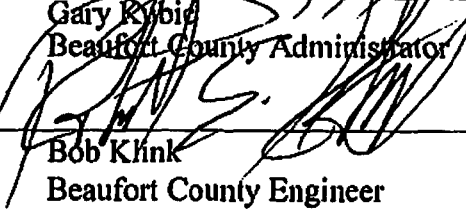
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

Signed, sealed and executed for County.

BEAUFORT COUNTY

WITNESS:

Cheryl Harris


By: 
Gary Kybid
Beaufort County Administrator
Attest: 
Bob Klink
Beaufort County Engineer

Signed, sealed and executed for the Department.


WITNESS:


Michelle B. Wagner

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

BY: 
H.B. Limehouse Robert J. St. Onge, Jr.
Secretary of Transportation

RECOMMENDED:


John V. Walsh, P.E.
Deputy Secretary for Engineering


Angela Feaster
Deputy Secretary for Finance & Administration

ATTACHMENT A

Construction Cost Spreadsheet

US 278 Widening - File 7.037178A

\$18,153,300.30 Bid estimate per SCDOT 9/8/10

\$3,630,660.06 20% Engineering & Contingencies

\$21,783,960.36 Total Construction Budget

-\$18,109,167.00 Total unspent Earmark funds available for construction as of 11/24/10*

(includes Federal portion of three earmarks and local match received from Beaufort County)

\$3,674,793.36 Construction funding shortfall

FY 2011 Federal Match Program funds

\$1,837,396.68 Federal

\$1,837,396.68 Beaufort County

* The unspent earmark amount is dynamic since the same earmarks are currently funding other active phases of the project (Preliminary Engineering, Right of way, Utilities, etc.). This amount will increase/decrease if overruns/underruns occur on the other phases.

ATTACHMENT B
Excerpt from the STIP

District 6 Beaufort

Description	Project	Length	Rank	MPO / COG	STIP Category	Federal Program	Previous \$17P/1	FY	FY	FY	FY	FY	FY	2010-2013	Remaining Cost
								2010	2011	2012	2013	2014	2015	Projected Cost	
US 21 Abwegold Creek			BR-32	Lowcountry	Bridge (Federal-Aid)	Bridge (Federal-Aid)	343.8	3,372 C						34,900	
G-7 Laves Creek			BR-72	Lowcountry	Bridge (Federal-Aid)	Bridge (Federal-Aid)	330 P	50 R	2,920 C					93,200	
US 278 Corridor (Skinnerville Road to SC 170) Widening/Safety Improvements				Lowcountry	EA/Match STIP	EA/Match STIP	2,898 C							327,769	
ACE Basin (Rehabilitate Berry Hill entrance road) (Adjacent to US 21 and Williams Services, ACE Basin National Wildlife Refuge) Funding Match Trail System This project was awarded with the 2008 Recreational Trails program Agency - SCRTT State Park Services - Hunting Island State Park New River Trail - Trailhead Development This project was awarded with the 2008 Recreational Trails program Agency - Town of Beaufort Pigeon Point Park Walking Trail This project was awarded with the 2008 Recreational Trails program Agency - Town of Beaufort Backwater Place Greenway Trail This project was awarded with the 2008 Recreational Trails program Agency - Town of Beaufort			SCD / CHATS	Lowcountry	Federal Lands	Federal Lands					77 C			97	
US 21 (Near S-143 to S-172) Widening/Safety Improvements				Lowcountry	Recreational Trails	Recreational Trails	125							125	
US 21 (Near S-143 to S-172) Widening/Safety Improvements				Lowcountry	Recreational Trails	Recreational Trails	107							107	
US 21 (Near S-143 to S-172) Widening/Safety Improvements				Lowcountry	Federal Lands	Federal Lands	63							63	
US 21 (Near S-143 to S-172) Widening/Safety Improvements				Lowcountry	Federal Lands	Recreational Trails	125							125	
US 21 (Near S-143 to S-172) Widening/Safety Improvements				Lowcountry	Local	Local	4,633 R	5,000 C	6,500 C					5,000 C	
US 21 (Near S-143 to S-172) Widening/Safety Improvements				Lowcountry	Recreational Trails	Recreational Trails	2,232 C	20,200 C	6,500 C					5,000 C	
US 21 (Near S-143 to S-172) Widening/Safety Improvements				Lowcountry	Recreational Trails	Recreational Trails	78 C								
US 278 Bus - William Wilson Parkway (Shelter Cove Lane through Sea Pines Circle (Including the traffic circle)) (Match provided by Beaufort County)				Lowcountry	ARRA	ARRA	2,211 C	2,007 C						34,233	
US 17 (Ace Basin) (Gardens Corner to Jacksonville) (Widened to 4 or 8 lanes) (See Calson County for additional information for this corridor)				Lowcountry	ARRA	ARRA	2,500 C							684	
US 278 to Beaufort Village) (Widening existing two-lane facility)				Lowcountry	ARRA	ARRA	4,500 C	560						560	