

April 14, 1997  
Agreement No. DTFH71-97-X-00013

FOREST HIGHWAY STATEWIDE AGREEMENT

among

ALABAMA DEPARTMENT OF TRANSPORTATION

and

U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

and

U.S. DEPARTMENT OF AGRICULTURE

FOREST SERVICE

for the

Administration of the Forest Highway Program

in the State of Alabama.

Parties to Agreement:

Eastern Federal Lands Highway Division, Federal Highway Administration, U.S. Department of Transportation, hereinafter called the FHWA-EFLHD, the Forest Service, U.S. Department of Agriculture, hereinafter called the FS; and the Alabama Department of Transportation, hereinafter called the ALDOT.

Purpose:

The purpose of this Forest Highway Statewide Agreement (Agreement) is to set forth the general Statewide procedures, mutually acceptable to the parties hereto, for the cooperative planning, programming, survey, design, construction, and maintenance of Forest Highways (FH) in the State of Alabama, pursuant to the provisions of 23 U.S.C Sections 202, 203 and 204, and the regulations issued thereunder jointly by the Secretary of Transportation and the Secretary of Agriculture. The Agreement also incorporates the public involvement/public hearing requirements of 23 C.F.R. Section 771.111 and 40 C.F.R. parts 1500 through 1508, other associated environmental review procedures under Section 771, and applicable FS requirements.

Under the Federal Lands Highway Program, Congress has authorized funds for FH that are within, or provide access to the National Forest System (NFS). Recognizing that substantial benefits will accrue to the State and to the Nation from the construction and maintenance of such FH and that the FH are under the jurisdiction of a public road authority, and further that the ALDOT has systems planning, maintenance, right-of-way acquisition, and interdisciplinary facilities available to assist in the accomplishment of the work, it is deemed fitting and desirable to the parties hereto to express by this instrument the general terms of their cooperation in that regard to achieve maximum benefits in the public interest.

As stated in 23 CFR 660.111, the design and construction of FH projects will be administered by the appropriate Federal Lands Highway Division of the Federal Highway Administration unless otherwise provided for in a Federal-Aid Project Agreement (PR-2) under this subpart. Through this Agreement, it is recognized that the ALDOT may be the agency administering the design and construction of the FH projects, and this Agreement provides procedures for either party to administer the projects.

The ALDOT is the agency administering the design and construction of FH projects in the State of Alabama unless a Memorandum of Agreement specific to the project is executed which identifies a different design and construct agency.

Forest Highway Routes:

This Agreement shall cover the FH routes, previously approved for inclusion in the designated FH network and any approved amendments. The FHWA-EFLHD shall maintain the inventory of the approved designated FH network. The list of such approved routes may be varied from time to time by agreement among the ALDOT and the FS, with the approval of the FHWA-EFLHD either by adding routes or removing routes or by altering the description of any route to give it proper identity. Each such action shall be indicated by a revised list showing the effective date of the revision.

### Transportation Planning/Management Systems:

It is recognized that FHs are an integral part of the road network in any State. Transportation planning is then a function that will be performed by the ALDOT who will work with the FS and the FHWA-EFLHD on long-range planning activities of mutual concern. The ALDOT agrees that it will adhere, in performing these functions, to the environmental review/public involvement/public hearing procedures required under the guidelines of 23 CFR 771; to the statewide and metropolitan planning requirements of 23 CFR 450; and to appropriate agency implementing procedures and policies. The ALDOT agrees to incorporate the long range FH transportation plan into the State's long range transportation plan. The ALDOT agrees to share information on FH routes in its bridge, pavement, and safety management systems.

### Program of Projects:

A program conference will be held biennially or more frequently if deemed necessary including the ALDOT, the FHWA-EFLHD, the Federal Highway Administration Alabama Division office (FHWA-Division office), and the FS in accordance with 23 CFR 660.109(a). After agreement has been reached on the program of projects, the FHWA-EFLHD will prepare the approved, updated program and forward copies to the ALDOT, the FHWA-Division office, and the FS.

The FHWA-EFLHD will provide the FH project data to the ALDOT prior to the ALDOT's public involvement process on the proposed Statewide Transportation Improvement Program (STIP). After the conclusion of the public involvement process, the ALDOT will incorporate the program of projects into its STIP. If applicable, the ALDOT will also forward a copy of the program to the appropriate Metropolitan Planning Organization (MPO) for incorporation into its Transportation Improvement Program (TIP).

### Development of Projects:

As stated previously, either the FHWA-EFLHD or the ALDOT will be the agency administering the design and construction of FH projects. If it is determined to be in the public interest to have an agency other than the FHWA-EFLHD or the ALDOT be responsible for the administration of the FH project, a Memorandum of Agreement specific to the project will be prepared which will establish the responsibilities of each party. Regardless of which agency is administering the project, once projects are included in an approved FH program, the agency administering the project shall proceed promptly, and projects shall be carried forth through completion in accordance with the approved program. Design standards for the FH projects shall be appropriate to the use of the road, scope of the project and in consideration of the natural and cultural environment. Standards specific to FHs or to a particular project may be established by agreement of the ALDOT and the FS and approval of the FHWA-Division office.

It is the intent of the project development process to keep all agencies informed of progress, to request the ALDOT, FS and FHWA-EFLHD attendance at the scheduled plan reviews, and to obtain written concurrence of the plans, specifications, and estimate (PS&E) and FHWA-EFLHD approval prior to advertisement. If it becomes evident during the development of the project, that the scope of the project or the anticipated construction cost needs to be changed, the agency

administering the project should initiate coordination with the other parties to obtain ALDOT/FS concurrence and FHWA-EFLHD approval of the change in the project.

Specifically, if the FHWA-EFLHD is administering the project, the FHWA-EFLHD will coordinate all plan reviews with the ALDOT and the FS and obtain written concurrence in the PS&E prior to advertisement of the project for construction. The FHWA-EFLHD will follow established Federal Lands Highway Program procedures for the development of the project, taking established ALDOT and FS practices into consideration where appropriate.

If the ALDOT is administering the project, the ALDOT will coordinate with the FS during the development of the project, obtain written concurrence of the PS&E from the FS, and submit the advertisement PS&E package with evidence of the FS concurrence to the FHWA-EFLHD for FHWA project authorization. Upon FHWA-EFLHD approval that the project was developed in accordance with the approved program, FHWA-EFLHD will obligate funds and authorize the ALDOT to proceed with the advertisement and construction of the project. Except as stated previously for the coordination with the FS and FHWA-EFLHD approval and funding authorization, the ALDOT will follow approved Federal-aid procedures in the administration of the project.

Compliance with Environmental Review/Public Involvement/Public Hearing Requirements in Project Development:

The FHWA-EFLHD and the ALDOT will adhere to the environmental review/public involvement/public hearing procedures required under the guidelines of 23 CFR 771 and appropriate agency implementing procedures and policies. These procedures include providing early and continuing opportunities during the project development process for the public to be involved in the identification of social, economic and environmental impacts. When FHWA-EFLHD is administering the project, consideration will be given to following ALDOT and FS public involvement procedures. When the ALDOT is administering the project, the FHWA-Division office will take all formal approval action on the environmental document in accordance with Federal-Aid Procedures.

The National Environmental Policy Act (NEPA) requires all Federal agencies and their agents to evaluate and disclose environmental impacts of their actions. This environmental evaluation process often involves several agencies. It is the intent under the Council of Environmental Quality (CEQ) regulations for a project to be evaluated one time comprehensively by a designated lead agency. Because highways are a charged responsibility of the Federal Highway Administration and its companion State Departments of Transportation, it is reasonable to expect the Federal Highway Administration to coordinate and complete the environmental process consistent with all State and Federal CEQ regulations.

The role and level of involvement of the FS will vary dependent upon the scope of the proposed action. Many projects will be confined within the limits of existing road rights of way and easements. This work will have minimal off-site impact and minor influence on the management

program of the FS. Coordination for this type of project will ensure conformance with the approved FH program of projects and a minimal level of environmental resource coordination.

Projects that encroach on National Forest System lands need a greater level of FS review of project area resources and potential project impacts, and more detailed documentation by both the agency administering the project and the FS. Because the highway project is the proposed action triggering the environmental review process, the FS is to be a Cooperating Agency. Because the FS is required to conduct an evaluation of the proposed highway action resulting in the consent to the appropriation and transfer of lands to the ALDOT or the appropriate County or Municipality, it is appropriate to document the review process and conclusions independently and attach these to the environmental document by appendices. When encroachment of National Forest System lands is anticipated, the agency administering the project and the FS should meet and agree upon the specific scope of the resource surveys, the type and frequency of public involvement actions to be used in the development of the project and the time frame for the FS to complete its decision process for the appropriation of the lands. These procedures will allow both the agency administering the project and the FS to fulfill their obligations in their own documentation formats, yet tie the coordinated reviews in a single NEPA document consistent with CEQ guidelines. In coordinating the environmental process and the anticipated Federal land transfer, the intent is to coordinate the issuance with the FS Decision Notice for the pending Federal land transfer and the NEPA public involvement process to achieve one joint public involvement process. It is understood that this may require advancing some design activities in order to provide more detailed right-of-way information at the NEPA public involvement stage of the project.

#### Construction of Projects:

Minor changes in grade, alignment, surface course, or structures made necessary by unforeseen contingencies or deemed desirable by conditions developing during the progress of work may be made by the agency administering the construction project without the prior or separate approval of the other parties to this Agreement. It is incumbent upon the agency administering the project to ensure that any such changes are not in conflict with any of the environmental and/or design considerations agreed to in the development of the project.

All construction is to be performed by contract entered into by competitive bids unless some other method is deemed to be more advantageous and in the public interest.

Following the award of the construction contract, the agency administering the project will notify the other parties in writing of the award of the construction contract, and invite their attendance to a preconstruction conference. Such meetings will provide an opportunity for all interested parties to discuss their mutual concerns regarding project construction. During construction, the FS (and the ALDOT, if FHWA-EFLHD is administering the project) will consult with the Project Engineer on matters pertaining to project construction and environmental and resource coordination required in the stipulation of special use permits such as clean up, borrow pit seeding, etc.

The FS (and the ALDOT if FHWA-EFLHD is administering the project) will be invited to participate in the final inspection. FS and ALDOT participation is to ensure that the project was constructed in accordance with the approved FH program.

The FHWA-EFLHD will administer projects in accordance with established Federal Lands Highway Program procedures, and in accordance with the applicable Federal acquisition regulations and procedures. The ALDOT will administer projects in accordance with approved Federal-aid procedures.

### Funding

When any proposed construction is to be administered by the ALDOT and financed in whole or in part with Federal funds, such circumstances will be set forth in the Project Agreement (PR-2) together with a statement of the amount of Federal funds obligated for that project. The expenditure of Federal funds shall not exceed the amount shown on the PR-2. If it appears that the project cost may exceed the estimate and additional Federal funds may be needed, no obligation on the part of FHWA-EFLHD shall occur until the ALDOT requests and receives an approved Modification of Federal-Aid Project Agreement (PR-2A).

As the work progresses, the ALDOT shall submit vouchers to the FHWA-EFLHD for payment of the Government's pro rata share of the cost of the work. The ALDOT shall send Form PR-20 to: Eastern Federal Lands Highway Division, Federal Highway Administration, 21400 Ridgetop Circle, Sterling, Virginia, 20166, or the ALDOT shall submit electronic billing claims to the Federal Highway Administration using the FHWA PR-20 Electronic Billing System for payment of the Government's pro rata share of the cost of the work. Upon completion of the project, the ALDOT shall send a final voucher Form PR-20 to the above address.

When the FHWA-EFLHD is administering projects funded entirely with FH funding or other funding provided directly to the Eastern Federal Land Highway Division, all project financial transactions will be processed in the Sterling office.

If State, local, other Federal-Aid funds or FS funds are made available on projects, the cost responsibilities and procedures to transfer these funds or to reimburse either the SHA or the FHWA-EFLHD for eligible project costs shall be covered by a Memorandum of Agreement specific to the project. Any unused balance of these funds will be returned to the provider after closure of the financial records. The amount of cooperative funds as set forth in the Memorandum of Agreement specific to the project shall be the maximum commitment to the project, unless a modification of the Memorandum of Agreement specific to the project is executed.

When cooperative and/or FS funds are involved, the agency administering the project shall furnish to the other parties to the FH program a summary statement of the cost of the project. The FHWA-EFLHD will provide a statement of the FH portion of the project cost as reported in periodic FH financial reports. All financial information will be available at any time to the parties to this Agreement upon request.

### Project Agreement:

A Memorandum of Agreement specific to the project is to be entered into between the ALDOT and the FHWA-EFLHD for each project for which (1) the survey, construction, acquisition of rights-of-way, or maintenance in connection with a project included in an approved FH program is to be accomplished in a different manner from that set forth in this Agreement, (2) cooperative funds, including Federal funds from programs other than the Federal Lands Highway Program, are to be made available to the FHWA-EFLHD for the project.

### Rights-of-Way

Rights-of-way or other interests in property are to be acquired by and in the name of the ALDOT, or by formal agreement with appropriate officials of a County, Municipal Government or other public road authority.. The cost of such rights-of-way or other interests in property acquired by the sponsoring agency are to be at the agency's expense unless otherwise provided in a Memorandum of Agreement specific to the project.

The agency administering the project will perform the title searches, surveys, write the description, and prepare right-of-way plans. Regardless of whether FHWA-EFLHD or the ALDOT administers the project, the ALDOT will administer the right-of-way acquisition. The ALDOT shall certify to the FHWA-EFLHD that the right-of-way has been acquired in accordance with Federal-Aid procedures.

For Federal land transfers, the agency administering the project will prepare a Highway Easement Deed. All Federal land transfers will be completed in accordance with the Federal-aid procedures which stipulates the coordination process with Federal agency, the ALDOT, and the Federal Highway Administration Division and Regional offices to execute the Federal lands transfer.

Access across National Forest Lands needed for such uses as access to gravel or fill sources and temporary use of lands (such as material source sites, stockpile sites, disposal sites, minor sloping, etc.) outside of the right-of-way required for the construction and maintenance of the highway facility, will be authorized by the FS issuance of an appropriate special use permit.

### Claims

The agency administering the project is responsible for resolution of any claim that arises as a result of any project design or construction contract. For ALDOT administered projects, reimbursement of the settlement will be made in accordance with established Federal-aid procedures for Alabama.

Maintenance

The ALDOT will maintain the FH project, or, by formal agreement with appropriate officials of a county, municipal government, or other public road authority, cause it to be maintained.

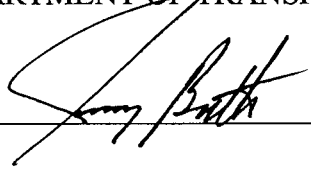
Prior to final construction acceptance by the contracting authority, the project shall be inspected by the cooperator, the FS and the FHWA-EFLHD or FHWA-Division office to identify and resolve any mutual concerns. The participation of the FHWA-Division office and the FHWA-EFLHD will be in accordance with approved Federal-Aid procedures.

Amendments to FH Statewide Agreements:

This Agreement together with the environmental review/public involvement/public hearing procedures may be modified by advance notice of 60 days from any of the three parties to the other two.

This Agreement shall be effective as of the \_\_\_th day of \_\_\_, 19\_\_\_, and shall supersede all prior existing cooperative agreements for the same routes entered into pursuant to 23 U.S.C. Sections 202, 203, and 204, "Federal Lands Highway Program" except those involving commitment of funds or arrangement for the performance of construction work on projects underway but not yet completed and final settlement made.

ALABAMA  
DEPARTMENT OF TRANSPORTATION

By: 

Title: Transportation Director

Date: \_\_\_\_\_

DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
REGION 8

By: 

Title: Regional Forester

Date: 5/22/97

DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION  
EASTERN FEDERAL LANDS HIGHWAY DIVISION

By: 

Title: Division Engineer

Date: 6/23/97