

**AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF PENSACOLA**

This Agreement is entered into by the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (the "Department") and the CITY OF PENSACOLA, a municipal corporation authorized and existing under the laws of the State of Florida (the "City").

RECITALS

1. The Department has undertaken a project (FDOT Item/Segment No. 4093341) for the replacement of SR30 Pensacola Bay Bridge No. 480035 (the "Project").
2. After the beginning of construction, the Department determined to incorporate in the Project the design and construction of the 17th Avenue Interchange on the northern landing of the Pensacola Bay Bridge.
3. The Department requires additional right of way for the construction of the proposed Interchange.
4. Pursuant to section 337.25(1)(b), Florida Statutes, the Department may accept donations of any land, buildings, or other improvements, including personal property within such buildings or on such lands with or without such conditions, reservations, or reverter provisions as are acceptable to the Department. Such donations may be used as transportation rights-of-way or to secure or use transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System.
5. The City is the current owner of property ("Property") upon which the "Pensacola Florida – City of Five Flags" memorial ("Five Flags Memorial") is located, and which Property can be used as transportation right-of-way for anticipated transportation facilities associated with the 17th Avenue Interchange portion of the Project.
6. The City desires to donate the Property to the Department upon the condition, but not as any form of consideration but only as mitigation of impacts to the City and as a replacement, that the Five Flags Memorial be replaced with a sign by and at the sole expense of the Department.
7. The Department is authorized pursuant to Section 334.044, Florida Statutes, to enter into contracts and agreements, and pursuant to Section 337.25 to accept donations of land and other property for transportation rights of way.
8. The City is authorized to enter into this Agreement pursuant to the Resolution of its City Council attached hereto.

NOW THEREFORE, in consideration of the mutual benefits to be derived from the Project and the Interchange, the parties agree to the following:

9. The recitals set forth in numbered paragraphs 1 through 8 above are true and correct and are deemed incorporated into this Agreement.

10. At, or within 15 days after, the execution of this Agreement by the City and the Department, the City shall convey to the Department a fee simple interest in the Property by deed in the form attached to this Agreement as Exhibit "A," and simultaneously therewith supply the Department with an executed Donation of Property to FDOT form in the form attached to this Agreement as Exhibit "B."

11. The replacement of the Five Flags Memorial with a sign will be performed pursuant to the provisions of Exhibit "C" attached to this Agreement. Simultaneously with the execution and delivery of Exhibits "A" and "B", the City will deliver a Use and Occupancy Agreement signed on the City's behalf and in the form attached to this Agreement as Exhibit "D".

12. The City makes the conveyance of the property interests referred to above as a negotiated donation of said property interests to the State of Florida for the use of the Department, and acknowledges and waives its rights to have such property interests appraised including therein the Five Flags Memorial, to accompany the appraiser during the appraisal inspection of the property, to receive full compensation of the above referenced property, and to receive reimbursement for reasonable fees and costs.

13. The City hereby confirms that it complied with all applicable federal regulations when it acquired the Property.

14. This Agreement and any interest herein shall not be assigned, transferred or otherwise encumbered by the City without the prior written consent of the Department. However, this Agreement shall run to the Department and its successors.

15. This Agreement is governed by and construed in accordance with the Laws of the State of Florida

16. The effective date of this Agreement shall be the latest date on which a party executes this Agreement.

17. This Agreement may be executed in two or more counterparts, each of which shall be an original but all of which shall be deemed to be but one Agreement.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in its behalf this ____ day of ____ , 2018, by its Mayor, being authorized to enter into and execute same by action of the City Council meeting in regular session on the ____ day of ____ , 2018, and the Department has executed this Agreement through its District Secretary for District III, Florida Department of Transportation on the date set forth below.

Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

CITY COUNCIL

CITY OF PENSACOLA, FLORIDA

BY: _____
Ashton Hayward, MAYOR

ATTEST: ERICKA BURNETT

CITY CLERK

City Clerk

Approved as To Form:

CITY ATTORNEY

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

BY: _____
PHILLIP GAINER, P.E.
DISTRICT SECRETARY
1074 Highway 90
Chipley, FL 32428

ATTEST:

EXECUTIVE SECRETARY (SEAL)

Date:

Legal Review:

OFFICE OF GENERAL COUNSEL

Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

EXHIBIT "A"