



COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REQUEST FORM

The Board of County Commissioners meets the 1st and 3rd Thursday of each month at 5:30 p.m. in the Columbia County School Board Administrative Complex Auditorium, 372 West Duval Street, Lake City, Florida 32055. All agenda items are due in the Board's office one week prior to the meeting date.

Today's Date: October 17, 2019

Meeting Date: November 7, 2019

Name: Chad Williams

Department: Engineering

Division Manager's Signature: _____

A handwritten signature in blue ink, appearing to be "CW", is written over the signature line.

1. Nature and purpose of agenda item:

Approval and execution of FDOT permit for at grade rail crossing and traffic control devices. This is the Maintenance of Traffic (MOT) rail crossing agreement needed to construct the rail spur across US 90 at NFMIP.

2. Recommended Motion/Action:

Approve Railroad Permit Agreement

3. Fiscal impact on current budget.

This item has no effect on the current budget.

**RAILROAD PERMIT AGREEMENT
GRADE CROSSING AND CROSSING TRAFFIC CONTROL DEVICES**

FINANCIAL PROJECT NO.	ROAD NAME OR NUMBER	COUNTY NAME	PARCEL & R/W NUMBER	FAP NUMBER
N/A	SR 10 (US 90)	COLUMBIA	N/A	N/A

THIS AGREEMENT, made and entered this _____ day of _____, _____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the DEPARTMENT, and Columbia County, Florida ("COUNTY").

WHEREAS, the COUNTY proposes to construct, reconstruct or otherwise install a railroad track(s) across the DEPARTMENT'S right-of-way on SR 10/US 90 (FDOT/AAR Crossing Number 975797Y) ("DEPARTMENT RIGHT-OF-WAY") to be located in Lake City, Florida within the jurisdictional limits of the COUNTY, as more particularly shown on the COUNTY'S Plans ("Plans"), previously approved by the DEPARTMENT and attached as Exhibit "A" ("Improvement"), and

NOW, THEREFORE, in consideration of the mutual undertakings as herein set forth, the parties hereto agree as follows:

1. The DEPARTMENT hereby grants to the COUNTY the right to construct and maintain the Improvement at the above-referenced location.

2. The COUNTY shall:

- A. Provide, furnish, or have furnished, all necessary materials required for construction of the Improvement, and will construct or have constructed at the COUNTY'S sole cost and expense, a Standard Railroad Crossing Type C (Concrete Tub) in accordance with the DEPARTMENT'S Standard Plans, Index 830-T01, attached as Exhibit "B".
- B. Be responsible for all necessary work including, without limitation, maintenance of traffic, diversion construction, utility locates or relocation, maintenance and construction of drainage features, subgrade and earthwork, asphalt work, rail crossing installation, railroad warning devices installation, signage installation, traffic striping installation, pavement marking installation, symbol installation, erosion control and stabilization.
- C. Be responsible for coordinating and managing sub-contractors constructing the Improvement and for ensuring all permit and environmental requirements are met for this project. All work will be in accordance with the approved Plans. All work within the DEPARTMENT'S RIGHT-OF-WAY shall be completed within 90 calendar days from the last signature affixed to this Agreement.
- D. Upon completion construction of the Improvement, be responsible for the maintenance, at the COUNTY'S sole cost and expense, of the following items as located within fifty feet from centerline of the track(s) on east and west of the Improvement: all tracked and rail components, the highway roadbed and surface, turf, vegetation, and tree trimming, shoulder and erosion control, drainage maintenance, maintenance of striping, signs, railroad warning devices and any associated wiring or conduit. Additionally, the COUNTY shall be responsible for all signage, advance warning devices or signs, signal equipment, pavement symbols, conduit, and wiring outside of fifty feet from centerline of track on both sides of the Improvement that is associated with the Improvement.
- E. Upon written request from the DEPARTMENT, at the COUNTY'S sole cost and expense, replace the Improvement surface with a new surface of the DEPARTMENT'S choosing within 24 months or remove the Improvement.
- F. If the DEPARTMENT determines the COUNTY is not maintaining and repairing the Improvement in accordance with the terms and provisions of this Agreement, the DEPARTMENT shall deliver written notification of such to the COUNTY. The COUNTY shall have thirty (30) days from the date of the DEPARTMENT'S written notice, or such other time as the DEPARTMENT and the COUNTY mutually agree in writing, to correct the deficiency and provide the DEPARTMENT with written notice of the same.

**RAILROAD PERMIT AGREEMENT
GRADE CROSSING AND CROSSING TRAFFIC CONTROL DEVICES**

- G. If the deficiency is not corrected timely, or if the DEPARTMENT determines that the deficiency remains after receipt of the COUNTY'S written notice indicating that the deficiency has been corrected, the DEPARTMENT, within its discretion, may: (1) provide the COUNTY with written authorization granting such additional time as the Department deems appropriate to complete correction of the deficiency; or (2) correct the deficiency at the COUNTY'S sole cost and expense. Should the DEPARTMENT elect to correct the deficiency, the DEPARTMENT shall provide the COUNTY with an invoice for the costs incurred by the DEPARTMENT to correct the deficiency and the COUNTY shall pay the invoice in accordance with the "Payment" section number 3 of this Agreement.
- H. If at any time in the sole determination of the DEPARTMENT, the integrity or safety of the Improvement requires immediate maintenance or repair for the benefit of public health, safety or welfare, the DEPARTMENT may perform such maintenance and repairs it deems appropriate under the circumstances. The DEPARTMENT shall provide the COUNTY with written notice of the emergency maintenance and repairs performed by the DEPARTMENT and an invoice for the same. The COUNTY shall pay the invoice in accordance with the "Payment" section (Paragraph 3 below) of this Agreement.

3. All DEPARTMENT invoices submitted to the COUNTY for payment pursuant to the terms and provisions of this Agreement are due and payable within forty-five (45) days of the date of the invoice ("Due Date"). Any portion of an invoice not received by the DEPARTMENT by the Due Date shall immediately thereafter begin accruing interest at a rate of interest established pursuant to §55.03, Florida Statutes, until paid in full.

4. The DEPARTMENT may require new or construction of highway pavement or other improvements on or within the DEPARTMENT RIGHT-OF-WAY, which may require the removal or relocation of the Improvement. In the event said construction or improvements occur, the parties expressly agree that any cost of relocation of the Improvement shall be borne entirely by the COUNTY.

5. The DEPARTMENT retains the right to construct, maintain or operate, or to permit others to construct, maintain or operate electric, telephone or other wires, or poles, or gas, water, fuel or other pipes, mains, or conduits or other facilities of any kind, upon, over or beneath said highway within the limits of the DEPARTMENT'S RIGHT-OF-WAY.

6. It is further mutually agreed between the parties that the Improvement as recognized by this Agreement:

☐ (a) is adequately protected for the safe operation of the general public. However, should future highway traffic conditions warrant additional crossing traffic control devices through the use of automatic grade crossing traffic control devices, including signals with or without gates, or separation structure(s); then, such additional traffic control devices and/or structure(s) will be installed as necessary. IT IS EXPRESSLY UNDERSTOOD AND AGREED that once a determination has been made as to the type of facility to be installed, whether signals or structure, such installation will be the subject of a Supplemental Agreement which will set forth the maintenance responsibility as governed by the applicable State and/or Federal requirements at the time of such installation.

☒ (b) presently requires the installation of grade crossing traffic control devices at the COUNTY'S expense and any such installation shall be in accordance with the Plans. The COUNTY shall furnish the necessary materials and install Type IV Class II Automatic Grade Crossing Signals and/or other traffic control devices at said location, all in accordance with the approved Plans and the DEPARTMENT'S Standard Plans Index 509-070, attached as Exhibit A and C, respectively.

7. Upon completion of and Final Acceptance by the DEPARTMENT of the Improvement, the same shall immediately be put into service, operated and maintained by the COUNTY so long as the COUNTY or successors or assigns shall operate the Improvement, or until it is agreed between the parties that the Improvement is no longer necessary at said location, or until the Improvement is abandoned or other legal requirements made which shall cease operation of the Improvement at the aforementioned location. The DEPARTMENT will not participate in the cost of maintaining the Improvement that is the subject of this Agreement. If the Improvement as installed and/or modified is no longer required at the point of installation, it may be removed to another location as agreed upon by the parties and at the sole cost and expense of the COUNTY.

8. The COUNTY agrees to indemnify and hold harmless the DEPARTMENT against each and every claim, demand or cause of action that may be made or come against the DEPARTMENT by reason of or any way arising out of any defect, imperfection, failure to repair, or failure to maintain, done, suffered, or permitted in or about such traffic control devices, and also every claim, demand or cause of action against said DEPARTMENT by reason of any liability that is or may be imposed on the DEPARTMENT under the laws of this State because of its participation in the cost of such

**RAILROAD PERMIT AGREEMENT
GRADE CROSSING AND CROSSING TRAFFIC CONTROL DEVICES**

maintenance or because such crossing may be included in the State Highway System, on account of any such defect, imperfection or failure to repair or maintain, done, suffered or permitted in or about said crossing or crossing traffic control devices, or on account of any action or omission on the part of the COUNTY in or about the same.

9. The COUNTY further agrees that any in the event of any future relocation or adjustment of the Improvement in accordance with Paragraph 4, above, the COUNTY shall assume full responsibility for the continued operation and maintenance of such devices once they are placed in service.

10. In the event the Improvement or its intended use is abandoned, then all rights hereby granted to the COUNTY shall thereupon cease and terminate and the COUNTY will, at its sole cost and in a manner satisfactory to the DEPARTMENT, remove the crossing and restore the DEPARTMENT RIGHT-OF-WAY to substantially the same condition as existed prior to construction of the Improvement, provided that the DEPARTMENT may, at its option, remove the Improvement and restore the DEPARTMENT RIGHT-OF-WAY, and the COUNTY will, in such event, upon invoice, reimburse the DEPARTMENT in accordance with paragraph 3 above.

11. The COUNTY covenants and agrees that it will indemnify and hold harmless the DEPARTMENT and all of the DEPARTMENT'S officers, agents, and employees from any claim, loss, damage, cost charge, or expense arising out of any act, action, neglect, omission, or delay by the COUNTY during the performance of the contract, whether direct or indirect, and whether to any person or property to which the DEPARTMENT or said parties may be subject, except that neither the COUNTY nor any of its subcontractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from sole negligence of the DEPARTMENT, its officers, agents, or employees.

12. It is understood and agreed by the parties to this Agreement that if any part, term, or provision of this Agreement is held illegal by the courts or in conflict with any law of the State of Florida, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

13. Any questions or matters arising under this Agreement as to validity, construction, enforcement, performance, or otherwise, shall be determined in accordance with the laws of the State of Florida. Venue for any action arising out of or in any way related to this Agreement shall lie exclusively in a state court of appropriate jurisdiction in Leon County, Florida.

14. The parties agree to bear their own attorney's fees and costs with respect to this Agreement.

15. The parties agree that this Agreement is binding on the parties, their heirs-at-law, and their assigns and successors in interest as evidenced by their signatures and lawful executions below.

16. A modification or waiver of any of the provisions of this Agreement shall be effective only if made in writing and executed with the same formality as this Agreement.

17. COUNTY shall:

1. utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the COUNTY during the term of the contract; and
2. expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
RAILROAD PERMIT AGREEMENT
GRADE CROSSING AND CROSSING TRAFFIC CONTROL DEVICES

725-090-42
RAIL OGC - 04/12

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers the day and year first written above.

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____

COUNTY: _____

BY: _____

Legal Review

BY: _____
Attorney - DOT Date

Approved as to FAPG Requirements

BY: _____
FHWA Date

Exhibit A

- 1.) Construction Plans for North Florida Mega Industrial Park Rail Spur – Segment 1
- 2.) US90 Temporary Diversion/Maintenance of Traffic Plans
- 3.) Proposed Crossing Layout
- 4.) North Florida Mega Industrial Park Proposed Rail – Construction Plan
- 5.) US Forest Service – Railroad Easement
- 6.) Environmental Resource Permit
- 7.) Executed Stipulation of Parties