

AGREEMENT OF MAINTENANCE OF PAVERS ON
DEPARTMENT OF TRANSPORTATION
RIGHT-OF-WAY

THIS AGREEMENT entered into this 17th day of September, 2001, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND COMPONENT AGENCY OF THE STATE OF FLORIDA**, hereinafter called the "Department" and the **BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA**, a political subdivision of the State of Florida, hereinafter called the "County", and the **AMELIA ISLAND PLANTATION COMPANY**, hereinafter called "AIP".

WHEREAS, the Amelia Island Company is constructing two (2) roundabouts on State Road A1A; and

WHEREAS, the Florida Department of Transportation (FDOT) has granted permission for the construction of the roundabouts; and

WHEREAS, the Department is requesting that Nassau County assume the liability for the pavers to be utilized in the roundabouts.

THEREFORE, in consideration of the mutual benefits each flow to the other, the parties hereby agree as follows:

1. The County, upon completion and acceptance of the pavers, will maintain the pavers within the roundabouts.

2. AIP shall notify the Department's Maintenance Engineer within twenty (20) working days of completion of the roundabouts.

3. The Department's representative shall inspect said work, and, if it has been performed to his/her satisfaction according to the approved drawing(s), the work shall be accepted, and a final acceptance letter shall be mailed to the County and AIP within twenty (20) working days after final acceptance.

4. The County covenants and agrees that it will indemnify and hold harmless the Department or any and all employees from any claims, loss, damage, cost, charge, or expense arising out of any act, action, neglect, or omission by the County associated with the maintenance of the pavers during the term of this Agreement, whether direct or indirect, 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 or any of its officers, agents, or employees.

5. The parties agree that the Florida Department of Transportation, District Two Secretary or his designee and the County's Director of Public Works shall meet to

consider all questions, difficulties, and disputes of any nature whatsoever relating to the performance of this Agreement as between the parties, and they shall recommend to their respective agencies specific recommendations as to claims, questions, and disputes relating to maintenance. The respective agencies may accept the recommendations or, if there is a disagreement as to the recommendations, the matter will be referred to mediation. The mediator shall be chosen from the Florida Supreme Court's approved mediator's list, and the decision of the mediator shall be binding on the parties.

6. If the Department determines that the pavers are not being properly maintained, the Department shall give written notice to the County that the deficient items shall be corrected within twenty (20) working days, or this Agreement shall be terminated.

7. If not otherwise in default, this Agreement may be renewed on an annual basis.

8. This Agreement may not be assigned or transferred by the County in whole or part without the consent of the Department.

9. AIP agrees to indemnify and hold harmless and defend the County for any and all claims, loss, damage, cost, charges, or expenses arising out of any act, action,

neglect, or omission by the County as to the maintenance of the pavers, including any claims made by the Department and any and all costs associated with the indemnity set forth in Paragraph 4.

10. AIP shall reimburse the County for any and all costs associated with the maintenance of the pavers. The County shall submit any and all invoices to AIP, and same shall be paid within thirty (30) days of submission.

11. This Agreement shall be governed by and constructed in accordance with the laws of the State of Florida.

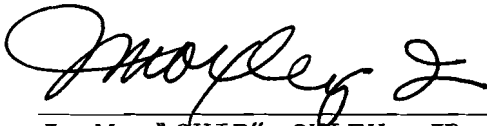
BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



MARIANNE MARSHALL

Its: Chairman

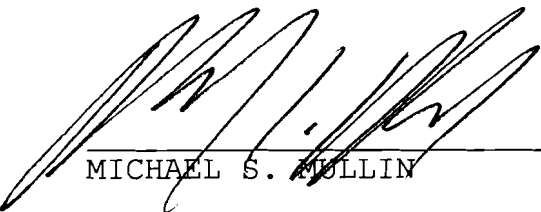
ATTEST:



J. M. "CHIP" OXLEY, JR.


Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney



MICHAEL S. MULLIN

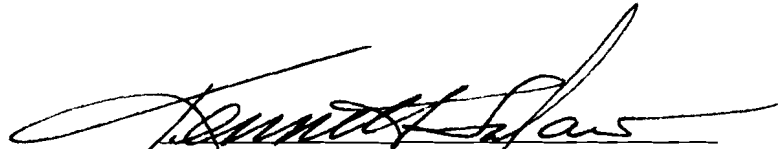
STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION



R.E. JOHNS, P.E.
District Maintenance Engineer

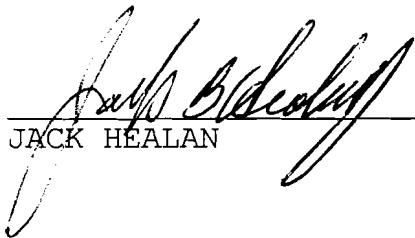
Attest:

By: _____



District General Counsel

AMELIA ISLAND PLANTATION
COMPANY



JACK HEALAN

h/anne/agreements/dot-pavers-agmt



Florida Department of Transportation

JEB BUSH
GOVERNOR

JACKSONVILLE URBAN OFFICE
* 2250 IRENE STREET *
POST OFFICE BOX 6669, MS 2809
JACKSONVILLE, FLORIDA 32236-6669

THOMAS F. BARRY, JR.
SECRETARY

December 3, 2001

Mr. Michael S. Mullin, County Attorney
Nassau County – Board of County Commissioners
P. O. Box 1010
Fernandina Beach, Florida 32035-1010

**RE: Section 74130 – SR A1A/105
Nassau County – Amelia Island Roundabout-Brick Pavers
Memorandum of Agreement
MOAJ-0240**

Dear Mr. Mullin:

Please find enclosed an approved Memorandum of Agreement granting Nassau County permission to construct and maintain brick pavers on SR A1A at the two Amelia Island Roundabouts.

All landscaping, planting and maintenance shall conform to the Department's Florida Highway Landscaping Guide and all applicable DOT rules and guidelines. You are reminded that failure to conform as outlined in the approved Agreement may cause revocation of this Agreement and all Agreements on record with the Department.

Please contact Russell Gautreaux, Maintenance Engineer, at (904) 879-6700 twenty-four hours prior to beginning work to set up a preconstruction meeting.

Should you have questions, please call Carol Wright, Assistant Permit Engineer, at (904) 360-5610.

Sincerely,

Stefanie D. Maxwell, P.E.
Permit Engineer

SDM/CW:bg

Enclosure

cc: Tom Dyal, District Permit Engineer
Russell Gautreaux, Area Maintenance Engineer
Joyce Bradley, Nassau County Clerk's Office

10:49 Upon the request and recommendation of the County Attorney, it was moved by Commissioner Samus, seconded by Commissioner Vanzant, and unanimously carried to approve an agreement with the Amelia Island Plantation, extending the completion date of the intersections to December 1, 2001.

11:49 It was moved by Commissioner Deonas and seconded by Commissioner Vanzant to approve the agreement between Nassau County and Amelia Island Plantation regarding pavers; subject to a second agreement to provide the Director of Public Works with a detailed drawing of pavers and installation; and subject to the Board approving another agreement to be considered on September 24, 2001 regarding indemnification for the lights. The vote carried four to one with Commissioner Samus voting no.

Upon the request and recommendation of the County Attorney, it was moved by Commissioner Deonas, seconded by Commissioner Howard, and unanimously carried to approve the concept of an agreement with the Florida Department of Transportation for the maintenance of pavers in the roundabout that is being constructed at the entrance to the Amelia Island Plantation, subject to Mr. Mullin bringing back to the Board an agreement between the Community Association and the Board of County Commissioners regarding maintenance.

9:56 Discussions turned to liability and maintenance issues related to the roundabouts on the Parkway installed by agreement between the Amelia Island Plantation and FDOT, and the use of brick pavers to delineate the circle and at the cross-walks. Following discussion and upon the recommendation of the Director of Public Works to address safety issues, it was moved by Commissioner Deonas, seconded by Commissioner Samus and unanimously carried to authorize the Director of Public Works to replace the brick pavers in the roundabouts at the entrance to the Amelia Island Plantation with stamped asphalt of a higher marshal.

10:01 The group then discussed various aspects of maintenance and liability issues for the roundabouts and caution lights on the site. Mr. Mullin explained an agreement was executed between the Amelia Island Company and Nassau County to indemnify the State on the pavers and accept the maintenance; Amelia Island Company agreed to indemnify the County and provide maintenance under separate agreement. He reported that the Amelia Island Company objected to the County's request for them to assume maintenance and liability for the caution lights that were required by FDOT. The County has not received a directive from FDOT to accept maintenance and liability for the lights, and Mr. Mullin will advise FDOT that the County would not accept any liability or maintenance responsibility. He noted too that Amelia Island Company officials have indicated they would not accept liability; and they may wish to address the Board to discuss this issue

11:29 Mr. Mullin stated that there will be no second agreement with the Amelia Island Plantation regarding the indemnification for lights. He continued that the Florida Department of Transportation (FDOT) is requiring the flashing lights, and he will advise FDOT that, on the Board's behalf, the County does not intend to maintain them nor assume the liability.