

COUNTY COMMISSIONERS RESOLUTION

74615-2601

274

On motion of Commissioner Hodges,
seconded by Commissioner Jones, the following
resolution was adopted:

WHEREAS, the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
has authorized and requested Nassau County
to furnish the necessary rights of way, borrow pits and easements
for that portion of Section 74615-2601, extending from Circle
Drive in Section 28, Township 2 North, Range 25 East Easterly
along Bismark Road to a point in Section 27, Township 2 North,
Range 25 East

which has been surveyed and located by the STATE OF FLORIDA DEPART-
MENT OF TRANSPORTATION as shown by a map on file in the Office of
the Officer designated by law as the recorder for said County, and
in the office of the said Department at Tallahassee, and

WHEREAS, the said Department will not begin construction
of said portion of said Section in said County until title to all
land necessary for said portion of said Section has been conveyed to
or vested in said State by said County, and said lands are physically
cleared of all occupants, tenants, fences, buildings, and/or other
structures and improvements upon or encroaching within the limits of
the land required for said portion of said Section; and

WHEREAS, the said County is financially unable at this
time to provide the necessary funds to acquire said rights of way,
borrow pits and easements; now therefore, be it

RESOLVED, that the STATE OF FLORIDA DEPARTMENT OF TRANS-
PORTATION be and it is hereby requested to pay for the rights of
way, borrow pits and easements for said road, including the removal
of buildings, fences and other structures and improvements thereon,
utility relocations and for other expenses of acquiring title to
said rights of way, borrow pits and easements by purchase or condem-
nation, from proceeds of State of Florida Department of General
Services bonds or secondary gasoline tax funds (Article XII, Section
9 (4), of Florida Constitution, and Section 335.041, Florida
Statutes, as amended), whichever is available, under conditions set
forth in the contract, of which this resolution forms a part;
and be it further

RESOLVED, that said County through its Board of County Commissioners, comply with the request of said Department and procure, convey or vest in said State the free, clear and unencumbered title to all lands necessary for said portion of said Section, and deliver to the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION said lands physically clear of all occupants tenants, fences, buildings and/or other structures and improvements situate upon or encroaching within the limits of the lands required for said portion of said Section and that the Chairman and the Clerk of the Board be and they are hereby authorized and directed to execute and deliver on behalf of said County to said Department the Contract in the form hereto attached;

STATE OF FLORIDA)
COUNTY OF NASSAU)

I HEREBY CERTIFY that the foregoing is a true and correct copy of resolution passed by the Board of County Commissioners of NASSAU County, Florida, at a meeting held the 12 day of October, A. D., 19 , and recorded in the Commissioners minutes.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 12 day of October, A. D. 19 76.

(SEAL)

Clerk of the Board of County Commissioners

74615-2601

RIGHT OF WAY CONTRACT
PROVIDING FOR USE OF SECONDARY GASOLINE TAX FUNDS
OR
STATE OF FLORIDA DEPARTMENT OF GENERAL SERVICES BOND FUNDS

THIS AGREEMENT made and entered into this 12 day of October, 1976, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the "Department", and the COUNTY OF NASSAU, a Political Subdivision of the State of Florida, hereinafter called the "County",

W I T N E S S E T H:

WHEREAS, the Legislature of Florida has designated and established State Road No. none, and the Department has located and surveyed a part of said Road designated as 74615-2601, and has prepared a Map of Survey and Location covering that portion of said Section extending from Circle Drive in Section 28, Township 2 North, Range 25 East Easterly along Bismark Road to a point in Section 27, Township 2 North, Range 25 East

in said County, as shown on a map, duly certified as provided by law, on file in the office of the Department of Transportation, Tallahassee, Florida, and on file in the Office of the Official designated by law as the recorder for said County, and in the judgment of the Department said location and survey have been found to be practicable, necessary and to the best interest of the State, and

WHEREAS, the Department has requested and authorized said County to secure by donation or purchase, if possible, the lands and property necessary for such right of way, borrow pits and drainage easements for said portion of said Section, and such as may hereafter be found necessary by the Department for said portion of said Section, and

WHEREAS, the County is financially unable at this time to provide the necessary funds from local sources to acquire the right of way, borrow pits and drainage easements, and

WHEREAS, the Board of County Commissioners of said County, at a meeting duly called and held on the 12 day of October, A. D., 1976, adopted a resolution, a copy of which is attached here-

to as Exhibit "A" and made a part hereof, signifying its agreement to comply with the Department's said request, requesting the Department to pay for acquiring said lands for right of way, borrow pits and drainage easements from funds which have been or may be remitted to the Department under provisions of Article XII, Section 9 (4), of the Florida Constitution, and Section 335.041, Florida Statutes, as amended, for expenditure solely within the County, or from proceeds of the State of Florida Department of General Services bonds issued for the purpose of constructing this project, and authorizing its Chairman and its Clerk, on its behalf, to execute this Contract;

NOW, THEREFORE, for and in consideration of the premises and of the mutual undertakings hereinafter set forth, the parties mutually covenant and agree as follows:

1. The County shall forthwith furnish the Department with a title search made by a reliable Abstractor or Abstract Company showing the present ownership and record description of each parcel of land over which said right of way, borrow pits and/or easements extend, together with all unsatisfied or outstanding recorded liens or encumbrances, leases and tax deeds, tax liens and tax certificates, or other interests, including possessive interests. Thereupon the Department shall prepare and furnish to the County the descriptions of said rights of way, borrow pits and/or easements to be acquired for each of the several parcels of land, or interests therein as shown by said title search. The furnishing of said descriptions shall be solely for the assistance of the County and nothing in this paragraph shall be taken or construed as the Department's acceptance of the title, or quality of the title, to the land or easements shown, and shall not release or relieve the County of its agreement herein to furnish the Department free, clear and unencumbered title to the land required for said right of way, borrow pits and easements, or from any of its covenants hereunder.

2. After the Department has furnished the County said description, the County shall proceed, out of the funds specified below, to acquire either by donation or purchase the free, clear and unencumbered title to the land so required as aforesaid for said portion

of said Section by the Department for said rights of way, borrow pits and easements, convey or vest the same to or in the State of Florida for the use of the State of Florida Department of Transportation, by good and sufficient deed or deeds, and deliver to the Department said land physically clear of all occupants, tenants, fences, buildings and/or other structures and improvements situate upon or encroaching within the limits of the lands required for said portion of said Section and shall have adjusted or secure arrangements for the adjustment of all sanitary and/or storm sewers, gas mains, meter, water mains, fire hydrants, pipes, poles, wires, cables, conduits, and other utilities and facilities situate or encroaching upon said land. Any land to which the County has heretofore acquired free, clear and unencumbered title, which may be necessary for said rights of way, borrow pits and/or easements, shall be conveyed by the County to the State for the said use under the provisions of this section.

Upon completion, the County shall make a certificate to the Department stating for each parcel and instruments vesting the free, clear and unencumbered title thereto in the State and certifying the removal of all occupants, tenants, fences, buildings and/or other structures and improvements and adjustment of all facilities and certifying that the free, clear and unencumbered title thereto is vested in the State and that all physical encumbrances are removed and that said rights of way are ready for construction of said portion of said Section.

3. In those instances where the County is unable to acquire, either by donation or purchase the lands and property necessary for such right of way, borrow pits and drainage easements for said portion of said Section, and such as may hereafter be found necessary by the Department for said portion of said Section, the County shall notify the Department of the necessity for condemnation proceedings. The Department shall then, at its sole option, either condemn the lands or authorize the County to do so. In those cases where the Department authorizes the County to handle the condemnation proceedings, the County shall make a certificate to the Department stating

for each parcel condemned the instruments vesting the free, clear and unencumbered title thereto in the State and certifying the removal of all occupants, tenants, fences, buildings and/or other structures and improvements and adjustments of all facilities and certifying that the free, clear and unencumbered title thereto is vested in the State and that all physical encumbrances are removed and that said rights of way are ready for construction of said portion of said Section.

4. Commencing with the date when the Department shall begin construction operations on said portion of said Section, and at all times thereafter for so long as said portion of said Section shall continue to be a part of the State System of Roads the County, solely at its own expense, shall save, defend and keep the State of Florida, and the Department, its officers, employees and contractors harmless from any and all damages, claims or injuries, actions at law or suits in equity arising from or growing out of any defect or alleged defect affecting the title or right of possession of the State of Florida for the use of said road, to any portions of the lands, borrow pits and easements acquired by the County and required by the Department for said portion of said Section as aforesaid, or because of the lack of title or right of possession thereto or by reason of encumbrances thereon, or failure to have removed occupants, tenants, fences, buildings and/or other structures and improvements or made or caused to be made adjustments of utilities and facilities thereon, and the County agrees to pay and discharge all lawful claims, damages, judgments, decrees and any other expenses arising from or growing out of such claims, injuries, actions or suits.

5. The Department agrees, at the direction of the County, by resolution attached hereto and made a part hereof, to pay for items set forth in Paragraph 7 below, either from proceeds of State of Florida Department of General Services bonds issued for the purpose of construction this project, or from secondary gasoline tax funds (Article XII, Section 9(4), of the Florida Constitution, and Section 335.041, Florida Statutes, as amended).

6. The County agrees that its acquisition of said rights of way, borrow pits and easements shall be conducted under supervision

of the Department. Upon receipt of the necessary and proper information from the County, the Department shall prepare requisitions for payment out of said funds directly to the proper persons for the items set forth in Paragraph 7.

7. The purchase or condemnation of the lands or interests required for rights of way, borrow pits and/or drainage easements for said portion of said Section as aforesaid shall be paid for in the following manner:

An appraisal shall be prepared of costs and damages required for the acquisition of the lands and easements and the clearing of the right of way of all physical obstructions which shall be approved by the Department. After the appraisal is thus approved, expenditures of said funds will be approved for the following purposes and in the following amounts:

1. Payment of the price for the parcels of land or easements arrived at either by negotiation or by awards in condemnation including relocation assistance as applicable under Department policies and regulations.
2. The costs of title search and other title information up to such amount as may be approved by the Department.
3. The costs of the appraisal up to such amount as may be approved by the Department, provided the appraiser is approved by the Department before he is employed.
4. The compensation to be paid to the County Attorney, if applicable, handling the condemnation proceedings shall be a reasonable fee, as determined by the County Commissioners and approved by proper resolution, which shall, in all cases, be subject to approval by the State of Florida Department of Transportation.
5. Payment into the Registry of the Court of amount set out in Order of Taking, if proceedings are instituted under Chapter 74, Florida Statutes. The County agrees not to stipulate for or agree to expenditure of funds from this deposit without approval of same by the Department, and further agrees that money so deposited shall be used only for the payment of awards of compensation to property owners; and the County further agrees to reimburse the Department for any money expended from said deposit for any other purpose.

IN WITNESS WHEREOF, the Department has caused this Agreement to be executed in quadruplicate by its Director of Administration and Executive Secretary, and its official seal to be affixed; and

the County has caused it to be executed by its Chairman and its Clerk, and its official seal to be affixed, the day and year first above written.

Signed, sealed and delivered in the presence of:

As to the Department

[Signature]

Gloria H. Guest

Margie J. Armstrong

As to the County

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

BY: _____
Director of Administration

ATTEST: _____ (SEAL)
Executive Secretary

COUNTY OF NASSAU, FLORIDA

BY: *John F. Armstrong Sr.*
Chairman

ATTEST: *[Signature]* (SEAL)
Clerk of the Board of County Commissioners

