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Tallahassee-St. Marks Historic Railroad Trail Extension Park Maintenance Agreement  
Between  
The City of Tallahassee, Florida  
And  
Leon County, Florida

This Tallahassee-St. Marks Historic Railroad Trail Extension Park Maintenance Agreement, hereinafter referred to as Maintenance Agreement is made and entered into this 30th day of November, 2007, by and between the City of Tallahassee, a municipal corporation organized under the laws of the State of Florida, hereinafter referred to as the CITY, and Leon County, a Charter County of the State of Florida, hereinafter referred to as the COUNTY.

WITNESSETH

WHEREAS, the Tallahassee-St. Marks Historic Railroad Trail Extension Park, hereinafter referred to as the Park, proceeds from Capital Circle Southeast north to Gamble Street, as reflected on Exhibit A, and;

WHEREAS, a small portion of the Park is currently located outside the corporate limits of the CITY, and;

WHEREAS, it is in the best interest of the public that both the CITY and the COUNTY portions of the Park be maintained to the same level of the City maintenance;

NOW THEREFORE, in consideration of these premises and the covenants contained herein, the parties agree to the following:

1. The CITY shall routinely maintain the Park, including the portions of the Park (as shown on Exhibit "A") that are outside the corporate limits of the CITY, as reflected on

Exhibit A, attached hereto and by reference made a part hereof. These areas shall be mowed and have litter removed once monthly in the growing season (nine (9) times annually); steep areas shall be slope mowed bi-monthly in the growing season (four (4) times annually); the trail shall be mechanically swept once monthly (twelve (12) times annually); landscaped areas shall be weeded and mulched as needed (one (1) time annually); irrigation water shall be applied bi-weekly at a rate of 1,036 gallons per watering (twenty-six (26) times annually); and irrigation system inspection and repairs shall be performed as needed (nine (9) times annually). For the purposes of this Maintenance Agreement, the growing season shall be March through November.

2. The work performed by the CITY shall be subject to periodic routine inspections by the COUNTY on dates to be determined by the COUNTY. The COUNTY shall give the CITY reasonable notice of the inspection dates, and shall send the CITY copies of any written inspection results.
3. Exhibit "A" is a map showing the location and extent of the areas of the Park that is not within the corporate limits of the CITY.
4. The COUNTY, as compensation to the CITY for the satisfactory performance of these maintenance services as identified in paragraph one (1) of this Maintenance Agreement, shall pay the City at the annual rate of installments of \$2,198.86 annually, payable semi-annual in accordance with Paragraph 6 of this Maintenance Agreement.
5. Should areas of the Park be annexed into the corporate limits of the CITY during the time period of this Maintenance Agreement, compensation to the CITY shall be reduced in proportion to the linear distance of the trail so annexed. Such compensation shall be based upon the rate of \$4,311.49 per linear mile and the total annual compensation shall be reduced proportionately. The CITY shall notify the COUNTY should such annexations occur, and Exhibit "A" shall be amended accordingly.

6. Invoices for services rendered shall be submitted by the CITY to the COUNTY semi-annually in March and September of each year. Lump sum payments by the COUNTY shall be made to the CITY on a semi-annual basis within thirty (30) days after receipt and approval of an invoice.

7. This Maintenance Agreement may be terminated under any one of the following conditions:

a. By the COUNTY, if the CITY fails to perform its duties under the terms of this Maintenance Agreement. If at anytime it shall come to the attention of the COUNTY'S Public Works Director that the Park or any part thereof are not being properly maintained pursuant to the terms of this Maintenance Agreement, the COUNTY'S Public Works Director may at his option issue a written notice that a deficiency or deficiencies exist (s), by sending a certified letter in the care of Gabriel P. Menendez, P.E., Director of Public Works, 300 South Adams Street, Tallahassee, FL 32301-1731, to place said CITY on Notice thereof. The CITY shall have a period of fourteen (14) calendar days from receipt of the notice to correct the cited deficiencies. If said deficiencies are not corrected within this time period, the COUNTY may terminate this Maintenance Agreement following ten (10) days written notice mailed in the same manner as the notice of the deficiencies. The COUNTY will pay the CITY for services satisfactory performed to the termination date on a pro rata basis.

b. By the CITY, if the COUNTY fails to perform its duties under this Maintenance Agreement, or fails to make timely payments in accordance with paragraph 6. The CITY'S Public Works Director may issue a written notice of late payment or nonpayment by sending a certified letter in the care of Tony Park, P.E., Public Works Director, 2280 Miccosukee Road, Tallahassee, FL 32308, to place said COUNTY on Notice thereof. Thereafter, the COUNTY shall have a period of ten (10) calendar days from receipt of the notice to make payment. If payment is not made within this time period, the CITY may at its option terminate this

Maintenance Agreement following ten (10) days written notice mailed in the same manner as the notice of late payment or nonpayment..

c. By either party following sixty (60) calendar days written notice mailed in the same manner as the notices mentioned in paragraphs a and b above.

d. By both parties, thirty (30) calendar days following the complete execution by both parties, of an agreement to terminate this Maintenance Agreement.

8. This Maintenance Agreement is for a period of two (2) years from the date first written above, which shall be the date the last party signs this maintenance Agreement. This Maintenance Agreement may be renewed after the initial (2) year period, for an additional two (2) year period. Any renewal must be agreed upon by both parties in writing (30) days prior to the expiration of the existing Maintenance Agreement.
9. To the extent permitted by Section 768.28, Florida Statutes, and the Florida Constitution, the CITY agrees to indemnify and hold harmless the COUNTY from all claims, damages, liabilities, or suits of any nature whatsoever arising out of, because of, or due to the breach of this agreement by the CITY, its delegates, agents, employees, or due to any act or occurrence of omission or commission of the CITY, including but not limited to costs and a reasonable attorney's fee. The COUNTY, may at its sole option, defend itself or allows the CITY to provide the defense. The CITY acknowledges that ten dollars (\$10.00) of the amount paid to the CITY is sufficient consideration for the CITY'S indemnification of the COUNTY. The liability of the CITY, as set forth in this paragraph, is intended to be consistent with limitations of Florida law, including the state's waiver of sovereign immunity pursuant to Section 768.28, Florida Statutes. No obligation imposed by this paragraph shall be deemed to alter said waiver or to extend the liability of the CITY beyond such limits, nor shall any such obligation be deemed or construed as a waiver of any defense of sovereign immunity to which the CITY may be entitled.

10. The performance of the COUNTY of any of its obligations under this Maintenance Agreement shall be subject to and contingent upon the availability of funds budgeted by the COUNTY or otherwise lawfully expendable for the purposes of this agreement for the current and future periods.

11. Disputes

11.1 The parties shall attempt to resolve any disputes that arise under this Maintenance Agreement in good faith and in accordance with this Section. The provisions of the "Florida Governmental Conflict Resolution Act" shall not apply to disputes under this Maintenance Agreement, as an alternative dispute resolution process is hereby encompassed within this Section 11. The party shall give written notice to the other party setting forth the nature of the dispute, date of occurrence (if known), and proposed resolution, hereinafter referred to as the "Dispute Notice".

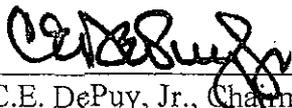
11.2 The appropriate CITY and COUNTY department heads shall meet at the earliest opportunity, but in any event, within 10 days from the date the Dispute Notice is received, to discuss and resolve the dispute.

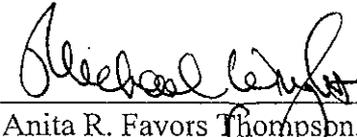
11.3 If an amicable resolution of a dispute has not been reached within 60 calendar days or by such later date as may be mutually agreed upon by the parties, then such dispute may be referred to binding arbitration by either party. Such arbitration shall be conducted in accordance with the Florida Arbitration Code (Chapter 682, Florida Statutes). The arbitration hearing shall be commenced in Leon County, Florida within sixty (60) days following selection an arbitrator. Except as may be specifically provided herein, the arbitration shall be conducted in accordance with Rules R-23 – R-48, of the Commercial Arbitration Rules of the American Arbitration Association.

IN WITNESS WHEREOF, the CITY and COUNTY have caused this Maintenance Agreement to be executed by their duly authorized representatives effective the date first written above.

LEON COUNTY, FLORIDA

CITY OF TALLAHASSEE, FLORIDA

By:   
C.E. DePuy, Jr., Chairman  
Board of County Commissioners

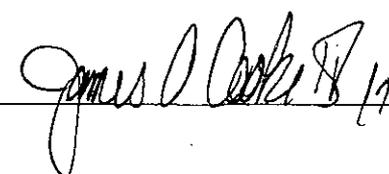
By:   
Anita R. Favors Thompson, Manager  
City of Tallahassee

ATTEST:  
Bob Inzer, Clerk of the Court  
Leon County, Florida

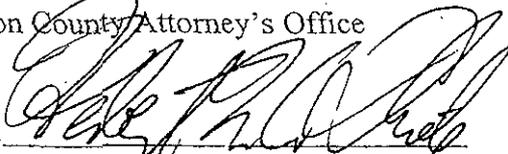


ATTEST:  
Gary Herndon, City Treasurer-Clerk  
City of Tallahassee, Florida

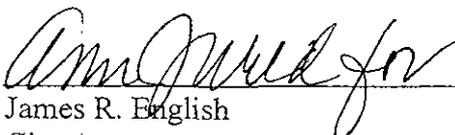
BY: 

BY: 

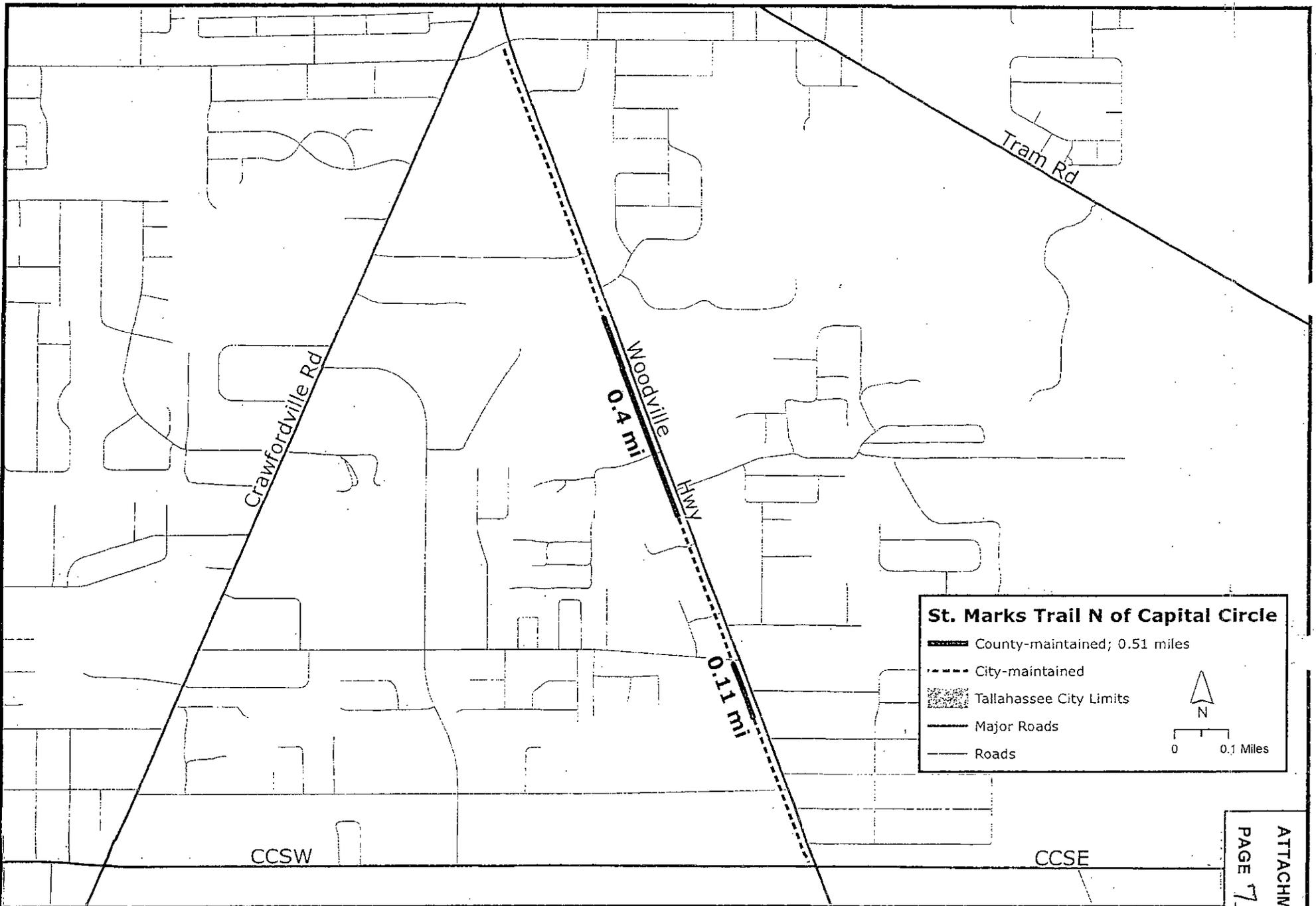
APPROVED AS TO FORM:  
Leon County Attorney's Office

By:   
Herbert W.A. Thiele, Esq.  
County Attorney

APPROVED AS TO FORM:  
City of Tallahassee Attorney's Office

By:   
James R. English  
City Attorney

APPROVED BY CITY COMMISSION  
September 10, 2007



**St. Marks Trail N of Capital Circle**

- County-maintained; 0.51 miles
- City-maintained
- Tallahassee City Limits
- Major Roads
- Roads

N  
 0 0.1 Miles

**Tallahassee-St. Marks Historic Railroad Trail Extension Park**

DATE: 06/05/2007      NAME: johnsonj  
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NOTE: This product has been compiled from the most accurate source data from Leon County, the City of Tallahassee, and the Leon County Property Appraiser's Office. However, this product is for reference purposes only and is not to be construed as a legal document or survey instrument. Any reliance on the information contained herein is at the user's own risk. Leon County, the City of Tallahassee, and the Leon County Property Appraiser's Office assume no responsibility for any use of the information contained herein or any loss resulting therefrom.

