ROUTING SLIP
CONTRACTS AND AGREEMENTS

Originating Department: Landscape Management

Council Meeting Date: 2-14-2013

Department Contact: Joy McKee

Phone # 427-5048

Contract or Agreement: Agreement for Cooperative Maintenance of Public Right-of-Way Between the ...

Document Name:

City Obligation Amount:

Total Project Budget: $100,000.00

Uncommitted Account Balance:

Account Number: 01-0000-3025-0000

Procurement Agreements

Select...	Select...

Grant-Funded Agreements

Select...	Grant Name:

Department	Signature	Date
1) Originating	Joy H McKee	Jan 8, 2013
2) Legal	Mary C. Cates	1/14/2013
3) Finance		1/17
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

Revised 04/15/2011

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number 2-14-2013

Meeting Type: Regular

Meeting Date:

Action Requested By:
Landscape
Management

Agenda Item Type

Resolution

Subject Matter:

Agreement: Alabama Department of Transportation

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into an agreement with the Alabama Department of Transportation for the cooperative maintenance of public rights-of-way.

Note: If amendment, please state title and number of the original

Item to be considered for: Introduction Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow
and accomplish and; any other information that might be helpful.

This agreement sets forth the terms and conditions of the continuation of an agreement between the Alabama Department of Transportation and the City for the cooperative maintenance of public rights-of-way.

Associated Cost:

Budgeted Item: Not applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: Joy H McKee

Date: 1-8-2013

revised 4/13/2011

RESOLUTION NO. 13-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama that the Mayor be and he is hereby authorized to enter into an Agreement by and between the City of Huntsville and the Alabama Department of Transportation, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Agreement for Cooperative Maintenance of Public Right-of-Way Between the Alabama Department of Transportation and the City of Huntsville, Alabama," consisting of seven (7) pages plus exhibit pages, and the date of February 14, 2013, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 14th day of February , 2013.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 14th day of February, 2013.

Mayor of the City of
Huntsville, Alabama

AGREEMENT
FOR
COOPERATIVE MAINTENANCE OF PUBLIC RIGHT OF WAY

BETWEEN THE ALABAMA DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF HUNTSVILLE, ALABAMA

THIS AGREEMENT is made and entered into on this the 14th day of February, 2013, by and between the Alabama Department of Transportation, hereinafter referred to as DEPARTMENT; and the City of Huntsville, Alabama hereinafter referred to as CITY; and

WHEREAS, the STATE and CITY desire to cooperate in the maintenance of public right-of-way in the City of Huntsville, Alabama.

NOW, THEREFORE, the parties hereto, for, and in consideration of the premises stated herein do hereby mutually promise, stipulate, and agree as follows:

In an effort to secure more pleasing appearances on the roadsides within the City limits of Huntsville on certain STATE routes, the CITY agrees to maintain the vegetative cover in the CITY along the right-of-way of the STATE routes identified in paragraph 15 herein below by means of mowing with flail or rotary mowers and hand trimming such that a clean and attractive appearance is obtained; reschedule mowing operations in accordance with the minimum mowing frequency requirements as set forth in paragraph 14 herein below; and, in the event that shrubs and/or minor trees exist or are planted within the area, trim around the plant materials in conjunction with mowing to obtain a clean and attractive appearance. CITY further agrees to

_____
President of the City Council
Date: _____

remove all clippings or other incidental debris (such as branches, trash, etc.) caused by CITY mow and trimming operations. In accepting the above, the DEPARTMENT and the CITY agree to the following:

1. The CITY will see that adequate sight distances are maintained for maximum public safety; otherwise the DEPARTMENT reserves the right to remedy this situation in the most expedient manner.

2. The DEPARTMENT is not responsible for the safety of individuals involved or taking part in this work during maintenance operations. All traffic control shall conform to The Manual on Uniform Traffic Control Devices.

3. If DEPARTMENT construction (repair of drainage and traffic structures, crossovers, and other minor construction) is performed in the subject area, it will be the responsibility of the DEPARTMENT to establish a stand of vegetative cover if deemed necessary by the DEPARTMENT, and then the CITY's responsibility to maintain the vegetative cover as stipulated herein. In the event of major construction in the subject areas, this agreement may be modified at a time designated by the DEPARTMENT. The DEPARTMENT shall notify the **CITY** in writing at least 3 days in advance of anticipated construction on any designated route.

4. All work shall be subject to the inspection and approval of the DEPARTMENT. If the maintenance is not conducted as specified herein, the DEPARTMENT shall assume maintenance and this agreement will be invalid. The DEPARTMENT does not grant applicant any right, title, or claim on any highway right-of-way.

5. The CITY agrees to store no equipment, branches, mounds of clippings or plant debris of any kind or any other material on the shoulders or pavement and in the case of multi-lane highways, in the median strip. The pavement will be kept free from waste (clippings, mud and other debris) caused by CITY mowing and trimming operation and free of equipment used in their mowing and trimming operation.

6. The CITY (or County) will be responsible at all times for all of the work performed under this agreement and, the CITY (or County) will protect, defend, indemnify and hold harmless the State of Alabama, The Alabama Department of Transportation, the officials, officers, and employees, in both their official and individual capacities, and their agents and/or assigns, from and against any and all action, damages, claims, loss, liabilities, attorney's fees or expenses whatsoever or any amount paid in compromise thereof arising out of or connected with the work performed under this Agreement.

By entering into this agreement, the City (or County) is not an agent of the State, its officers, employees, agents or assigns. The City (or County) is an independent entity from the State and nothing in this agreement creates an agency relationship between the parties.

7. This agreement is executed with the understanding that it is not valid until the CITY has complied with all existing ordinances, laws and zoning boards that have jurisdiction in the county, city or municipality.

8. Failure of the CITY to conform to the provisions of this agreement will be cause to terminate this agreement. DEPARTMENT shall provide thirty (30) days notice, in writing, of any termination.

9. The CITY may provide litter pick-up necessary to keep a pleasing appearance of the roadside.

10. The CITY will provide trimming of plants in any existing or newly landscaped areas, particularly near the overpasses on Memorial Parkway (US231/431). Any other hand trimming deemed necessary by the CITY and DEPARTMENT shall be performed by the CITY. Any trimming work performed by the DEPARTMENT, (Boom Axe trimming of trees) shall be removed by the DEPARTMENT within fourteen (14) working days.

11. On a site-by-site basis the CITY may plant additional landscaping. Each site shall be approved by proper permit by the DEPARTMENT prior to planting. A site plan shall be submitted along with the permit and approved prior to beginning work on any new landscaping.

12. The CITY may perform any herbicide necessary to maintain the appearance of the roadside. This includes but is not limited to concrete islands, median barriers, curbs, and other structures. Herbicide application shall conform to the DEPARTMENT Vegetation Management guidelines and be applied by certified pesticide Applicators. Daily application reports shall be furnished to the state on a weekly basis.

13. The CITY will perform adequate dressing and street sweeping on the routes included in this agreement which have curbs and gutters, maintaining a clean and attractive appearance of the roadway.

14. The CITY shall provide a minimum of one mowing cycle per month for five (5) months (with the exception of sloped areas requiring Boom Axe mowing). Additional cycles will be at the discretion and expense of the CITY. The DEPARTMENT will provide payment of twenty thousand dollars ($20,000) for each monthly cycle which includes all work covered by this agreement. The total payment shall not exceed one hundred thousand dollars ($100,000) for the services provided. The CITY shall notify the DEPARTMENT in writing at the beginning and end of each cycle, including a schedule of routes to be cut. The DEPARTMENT shall accept/decline the mowing cycle on each route in writing within 3 days of the CITY completing that route.

The first payment may be requested by the CITY on or after May 1, 2013, after the completion of the first mowing cycle. The final payment may be requested by the CITY on or after September 1, 2013, at the completion of the final mowing cycle.

15. The routes and work limits included in this agreement are listed as follows:

AL	US	DESCRIPTION	MM BEGIN	MM END
1	431 & 231/431	Governor's Drive & North Memorial Pkwy	325.287	341.647
2	72	University Drive & 72E	91.491	103.499
53	231	S. Parkway, Governor's Dr. & Jordan Lane	244.397	323.623
255	N/A	Research Park Blvd.	0.00	10.396

16. The term of this agreement shall be for a period of one year, commencing on the 1st day of April, 2013, and ending on the 31st day of March, 2014.

Agreement for Cooperative Maintenance of Public Right-of-Way Between the Alabama Department of Transportation and the City of Huntsville, Alabama

IN WITNESS WHEREOF, the parties hereto cause this agreement to be executed by those officers, officials and persons thereunto duly authorized, and the agreement is deemed to be dated and to be effective on the date stated hereinafter as the date of the approval of the Governor of Alabama.

SEAL

ATTEST:

CITY OF HUNTSVILLE, AL

BY: _____

City Clerk (Signature)

Mayor (Signature)

Charles E. Hagood

Type name of Clerk

Tommy Battle

Type name of Mayor

APPROVED AS TO FORM:

BY: _____

Chief Counsel, Jim R. Ippolito, Jr.

RECOMMENDED FOR APPROVAL:

_____

Division Engineer, Johnny L. Harris

_____

Maintenance Engineer, George Conner, P.E.

_____

Chief Engineer, Ronnie Baldwin

STATE OF ALABAMA
ACTING BY AND THROUGH THE
ALABAMA DEPARTMENT OF TRANSPORTATION

_____

Transportation Director, John R. Cooper
This contract has been reviewed for and is approved as to content and Is to be paid from available State Maintenance funds.

RECOMMENDED:

_____

Director of Finance & Audits, Bill Flowers

The forgoing agreement is hereby approved by the Governor of the State of Alabama this _____Day of_____, 2013.

_____

GOVERNOR OF ALABAMA, ROBERT BENTLEY

EXHIBIT "N"

FUNDS SHALL NOT BE CONSTITUTED AS A DEBT

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the DEPARTMENT of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this agreement shall contravene any statue or Constitutional provision of amendment, either now in effect or which may, during the course of this agreement, be enacted, then the conflicting provision in the agreement shall be deemed null and void.

TERMINATION DUE TO INSUFFICIENT FUNDS

If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.

In the event of proration of the fund from which payment under this agreement is to be made, agreement will be subject to termination.