

**CITY COUNCIL AGENDA ITEM COVER MEMO**

Agenda Item Number: \_\_\_\_\_

Meeting Type: Regular

Meeting Date: May 14, 2015

Action Requested By: Administration

Agenda Type: Resolution

**Subject Matter:**

Authorizing Modification No. 1 to the Conservation and Preservation Agreement with Cityscapes for Mason Building Facade.

**Exact Wording for the Agenda:**

Resolution authorizing the Mayor to execute Modification No. 1 to the Conservation and Preservation Agreement between the City of Huntsville and Cityscapes, LLC, for Mason Building located at 115 East Clinton Avenue as Adopted by Resolution No. 15-303 on April 23, 2015.

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

Item to be considered for: Action

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.

[Empty box for providing details on why the action is required, why it is recommended, what council action will provide, allow and accomplish, and any other helpful information.]

Associated Cost: \$0.00

Budgeted Item: Not Applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: \_\_\_\_\_

Date: \_\_\_\_\_

## ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Administration

Council Meeting Date: 5/14/2015

Department Contact: John Hamilton

Phone # 427-5000

Contract or Agreement: Mod. 1 to Conservation and Preservation Easement Agreement

Document Name: Mod. 1 to Conservation and Preservation Easement Agreement

City Obligation Amount:  0.00

Total Project Budget:  0.00

Uncommitted Account Balance:

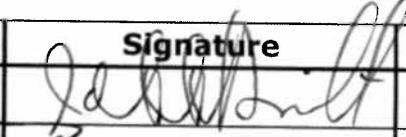
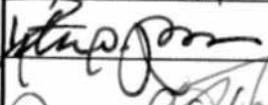
Account Number:

### Procurement Agreements

|                       |                       |
|-----------------------|-----------------------|
| <b>Not Applicable</b> | <b>Not Applicable</b> |
|-----------------------|-----------------------|

### Grant-Funded Agreements

|                       |                    |
|-----------------------|--------------------|
| <b>Not Applicable</b> | <b>Grant Name:</b> |
|-----------------------|--------------------|

| Department                                  | Signature   | Date    |
|---|---|---------|
| 1) Originating                              |  | 5/13    |
| 2) Legal                                    |  | 5-11-15 |
| 3) Finance                                  |  | 5/12    |
| 4) Originating                              |  | 5/13    |
| 5) Copy Distribution                        |   |         |
| a. Mayor's office<br>(1 copies)             |   |         |
| b. Clerk-Treasurer<br>(Original & 2 copies) |   |         |
|   |   |         |

RESOLUTION NO. 15-\_\_\_\_\_

**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 Modification No. 1 to the Conservation and Preservation Façade Easement Agreement by and between the City of Huntsville, Alabama, and Cityscapes, LLC, 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 "Modification No. 1 to the Conservation and Preservation Agreement between the City of Huntsville and Cityscapes, LLC, for Mason Building located at 115 East Clinton Avenue as Adopted by Resolution No. 15-303 on April 23, 2015," consisting of two (2) pages, and the date of May 14, 2015, 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 May, 2015.

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

**APPROVED** this the 14th day of May, 2015.

\_\_\_\_\_  
Mayor of the City of  
Huntsville, Alabama

STATE OF ALABAMA )

COUNTY OF MADISON )

**Modification No. 1 to the Conservation and Preservation Agreement between the City of Huntsville and Cityscapes, LLC, for Mason Building Located at 115 East Clinton Avenue as adopted by Resolution No. 15-303 on April 23, 2015**

**MODIFICATION NO. 1**

THIS MODIFICATION IS MADE TO THE AGREEMENT entitled "Conservation and Preservation Agreement between the City of Huntsville and Cityscapes, LLC, for Mason Building Located at 115 East Clinton Avenue" as adopted by Resolution No. 15-303 on April 23, 2015," as referenced above and is entered into on this the 14<sup>th</sup> day of May, 2015 by and between the City of Huntsville, Alabama (City) and Cityscapes, LLC (Company).

**WITNESSETH**

**WHEREAS**, the parties previously entered into an Agreement for a Conservation and Preservation Façade Easement for Mason Building at 115 East Clinton Avenue, Huntsville, Alabama on April 23, 2015; and

**WHEREAS**, the said agreement was adopted and approved by the City Council of the City of Huntsville pursuant to Resolution No. 15-303; and

**WHEREAS**, the parties now mutually desire to amend Section 8.13 of the Agreement regarding the Company's right to terminate;

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree to modify the Agreement as follows:

1. Section 8.13 of the Agreement is deleted in its entirety and replaced with the following:

SECTION 8.13 **Period in which to Terminate.**

Notwithstanding anything in this Agreement to the contrary,

\_\_\_\_\_  
President of the City Council of the  
City of Huntsville, Alabama  
Date: \_\_\_\_\_

if within thirty-six (36) months of the date of this Agreement the Company has not been paid in full all amounts secured by a certain mortgage it will hold on the Mason Building Façade Easement Site, resulting from the sale of the Site to a third party for use as a mercantile store, then Company may give notice of termination of this Agreement and upon its repayment of the \$200,000.00 to the City, this Agreement shall terminate. Such notice of cancellation must be given by the Company to the City on or before July 1, 2018. Upon such notice and remittance of repayment to the City, this Agreement shall terminate and no longer be of any force or effect. This Right of Termination set forth herein is a right applicable solely to the original Grantor and is not enjoyed by any successor in interest.

2. All other terms and conditions of the Original Agreement remain unchanged and in full force and effect.

**IN WITNESS WHEREOF**, the City and the Company have each caused this Modification No. 1 to be duly executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and have caused this Modification No. 1 to be dated the date and year first above written.

**THE CITY OF HUNTSVILLE, ALABAMA**

**ATTESTED:**

By: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor

**ATTESTED:**

**CITYSCAPES, LLC.**

By: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_