

CITY COUNCIL AGENDA ITEM COVER MEMO

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

Meeting Type: Regular

Meeting Date: Apr 14, 2016

Action Requested By: Urban Development

Agenda Type: Resolution

Subject Matter:

Agreement for the relocation of Gate 9 on Redstone Arsenal.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into an Agreement between the City of Huntsville and the City of Huntsville Federal Building Authority for the Relocation of Gate 9 on Redstone Arsenal.

**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.

Associated Cost: 1,000,000

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: 4.12.16

RESOLUTION NO. 16-\_\_\_\_\_

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor is hereby authorized to enter into an Agreement with the Federal Building Authority, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said document is substantially in words and figures similar to that certain document attached hereto and identified as "Agreement between the City of Huntsville, Alabama, and the City of Huntsville Federal Building Authority for the Relocation of Gate 9 on Redstone Arsenal, Alabama," consisting of Four (4) and the date of April 14, 2016 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 April, 2016.

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

ADOPTED this the 14th day of April, 2016.

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

STATE OF ALABAMA        )  
COUNTY OF MADISON     )

**AGREEMENT BETWEEN THE  
CITY OF HUNTSVILLE, ALABAMA  
AND THE CITY OF HUNTSVILLE  
FEDERAL BUILDING AUTHORITY  
FOR THE RELOCATION OF GATE 9  
ON REDSTONE ARSENAL, AL**

**AGREEMENT**

This Agreement made and entered into on this the 14th day of April, 2016 by and between the City of Huntsville, Alabama, a municipal corporation existing under the laws of the State of Alabama (hereinafter referred to as "City"), and the City of Huntsville's Federal Building Authority, a public corporation and instrumentality under the laws of the State of Alabama (hereinafter referred to as "FBA"):

**Section 1. PURPOSE**

Pursuant to *Code of Alabama*, (1975 and Supp. 2002), Section 11-101-1, *et seq.*, the corporate purpose of the Federal Building Authority is to provide buildings, facilities, and other property for lease to and use by the United States Department of Army, its department, agencies and instrumentalities. Pursuant to a Master Lease Agreement entered into by and between the United States of America and LW Redstone Company, LLC dated July 16, 2009, as amended by that certain Supplemental Agreement #1 dated March 5, 2012 (collectively, the "Master Lease"), LW Redstone Company, LLC secured the rights to undertake a commercial office development on a portion of the property located on the Redstone Arsenal, Alabama (the "Arsenal") commonly referred to as the Redstone Gateway (the "Gateway Property"). Pursuant to a petition filed by the U.S. Army Garrison at the Arsenal (the "Garrison"), the City of Huntsville agreed to annex the Gateway Property into the city limits of the City of Huntsville (the "City") for purposes of maintaining various roadways within the Gateway Property and providing certain city services to the Gateway Property. The Arsenal is accessed by Rideout Road ("Road") south of Interstate 565. The Road provides access to the Arsenal through Gate 9 which is the most heavily utilized entrance into the Arsenal. Because of significant growth at the Arsenal, Gate 9 has traffic congestion problems particularly when employees, contractors and other personnel are entering the Gate during the morning rush hours. Portions of the Road, including the current location of Gate 9 are located within the Gateway Property annexed by the City. The Garrison determined that the relocation of Gate 9 to a position further south on the Road would better manage the flow of traffic into the Arsenal. After said study, the Garrison prepared construction documents for the relocation of the Gate. Pursuant to the terms of the Master Lease and the Annexation and Development Agreement entered into on March 25, 2010 between the City and LW Redstone Company, LLC as amended by that certain Modification No. 1 dated May 24, 2012 (the "Annexation Agreement"), LW Redstone Company, LLC agreed to coordinate the Project and plans to enter into an agreement between the City of Huntsville Federal Building Authority and LW Redstone, LLC to contract for the construction of the Gate 9 relocation project with LW Redstone, LLC to act as construction manager. In accordance with such agreement, funding for the project is to be contributed to the Federal Building Authority from various public and private sources.

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

## **Section 2. FUNDING/PAYMENTS**

The City does hereby agree to provide funds in the amount of One Million Dollars (\$1,000,000.00) to the FBA for the purpose of the FBA contracting for the construction of the relocation of Gate 9 on Redstone Arsenal, AL. Such funds shall be provided to the FBA as approved by the City of Huntsville's Finance Director. Such contract for construction shall be in a form and in substance acceptable to and subject to the approval of the City Attorney of the City of Huntsville.

## **Section 3. PERIOD OF PERFORMANCE**

The period of performance of this Agreement is for the term of two (2) years from the date of this Agreement

## **Section 5. AVAILABILITY OF RECORDS**

The FBA agrees to maintain adequate and detailed records, including financial records of this project and to require its contractor to do so in the furtherance of the construction on the relocation of Gate 9. Such records shall be available to the City of Huntsville or its assigned agents for inspection or audit at a reasonable time and place.

## **Section 6. TERMINATION**

The City may for any reason whatsoever terminate performance under this Agreement by the FBA for convenience. The City shall give written notice of such termination to the FBA specifying when termination becomes effective. The FBA shall incur no further obligations in connection with the Work and the FBA and its Contractor shall stop work on any portions of the work funded by the funds provided by the City when such termination becomes effective. The FBA and its Contractor shall also terminate all related outstanding orders and subcontracts funded by the City's provided funds. The FBA shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the FBA to assign the FBA or its Contractor's right, title and interest under terminated orders or subcontracts to the City or its designee. The FBA shall submit a termination claim to the City specifying the amounts due because of the termination for convenience together with costs, pricing or other data as required by the City. The total sum to be paid to the FBA under this paragraph shall not exceed the total Agreement price of \$1,000,000.00 as properly adjusted, reduced by the amount of the payments otherwise made, and shall in no event include duplication of payment.

## **Section 7. GENERAL TERMS AND CONDITIONS**

### **7.1 Governing Law**

This Agreement shall be governed by the laws of the State of Alabama.

## **7.2 Intent and Interpretation**

This Contract is intended to be an integral whole and shall be interpreted as internally consistent. The words "include", "includes", or "including", as used in this Contract, shall be deemed to be followed by the phrase, "without limitation."

The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

Words or terms used as nouns in this Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

## **7.3 Time Is Of The Essence**

Time limitations contained herein, or provided for hereby, are of the essence of this Agreement.

## **7.4 Notices**

Unless otherwise provided, all notices shall be in writing and considered duly given if the original is hand delivered; is delivered via facsimile; or is sent by U.S. Mail, postage prepaid. All notices shall be delivered to the addresses set forth below: Notices given by hand delivery or by telex, facsimile, telecopy or other electronic means shall be deemed received on the next business day following the date of receipt. Notices given by U.S. Mail shall be deemed received as of the second day following posting.

CITY: Trey Riley  
City of Huntsville  
308 Fountain Circle  
Huntsville, Alabama 35801

FBA: Robert D. Ludwig  
City of Huntsville Federal Building Authority  
308 Fountain Circle  
Huntsville, Alabama 35801

## **7.5 Waiver**

No provision of this Agreement may be waived except by written agreement of the parties. A waiver of any provision on one occasion shall not be deemed a waiver of that provision on any subsequent occasion, unless specifically stated in writing. A waiver of any provision shall not affect or alter the remaining provisions of this Agreement.

**7.6 Severability**

If any provision of this Agreement, or the application thereof, is determined to be invalid or unenforceable, the remainder of that provision and all other provisions of this Agreement shall remain valid and enforceable.

**7.7 Entire Agreement**

This Agreement represents the entire agreement among the parties to this Agreement and supersedes all prior communications, negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by all parties to the Agreement.

**ATTEST:**

**City of Huntsville, Alabama**

\_\_\_\_\_  
**Kenneth Benion**  
Date: \_\_\_\_\_

\_\_\_\_\_  
**Tommy Battle, Mayor**  
Date: \_\_\_\_\_

**ATTEST:**

**City of Huntsville Federal Building  
Authority**

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

\_\_\_\_\_  
**Its Chairman**  
Date: \_\_\_\_\_

## ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Select... Urban Dev.

Council Meeting Date: 4/14/2016

Department Contact: **Shane Davis**

Phone # 427-5310

Contract or Agreement: **Federal Building Authority to Relocate Gate 9**

Document Name: **Federal Building Authority to Relocate Gate 9**

City Obligation Amount: **\$1,000,000**

Total Project Budget:

Uncommitted Account Balance:

Account Number:

### Procurement Agreements

<b>Not Applicable</b>	<b>Not Applicable</b>
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### Grant-Funded Agreements

<b>Not Applicable</b>	<b>Grant Name:</b>
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Department	Signature	Date
1) Originating	<i>Shane Davis</i>	4-12-16
2) Legal	<i>Ray C. Cates</i>	April 11, 2016
3) Finance	<i>M. Dargatzis</i>	4-12-16
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		