

**AGREEMENT  
FOR A TRANSPORTATION ENHANCEMENT PROJECT  
BETWEEN THE STATE OF ALABAMA AND  
THE CITY OF DECATUR**

**Morgan County**

**Highway 31, North Causeway Landscaping  
Project No. STPTE-TE10(904)S2**

**SUPPLEMENT NUMBER ( 2 )**

This Supplemental Agreement is made and entered into by and between the State of Alabama (acting by and through the Alabama Department of Transportation), hereinafter referred to as STATE; and the City of Decatur, hereinafter referred to as AGENCY, in cooperation with the U. S. Department of Transportation, Federal Highway Administration, hereinafter referred to as FHWA; and

WHEREAS, the STATE and the AGENCY entered into an "Agreement for a Transportation Enhancement Project" for the above referenced project, on the 13<sup>th</sup> day of December 2010; and

WHEREAS, the STATE and the AGENCY desire to amend the Agreement entered into on the 13<sup>th</sup> day of December 2010, by execution of this supplemental agreement.

NOW, THEREFORE, the parties hereto, for, and consideration of the premises stated herein, do hereby mutually promise, stipulate, and agree that the foregoing agreement between the parties dated December 13, 2010, be and the same is hereby amended in the following respect:

1. PART TWO (2) PROJECT PROVISIONS, Paragraph C. is hereby amended by substituting :

**C. Project Funding:** It is expressly understood that federal funds for this project will be provided from Surface Transportation Program funds as authorized under 23 U.S.C133(d)(2) and the STATE will not be liable for any funding. It is further understood that this is a cost reimbursement program and no federal funds will be provided to the AGENCY prior to

accomplishment of work for which reimbursement is requested. Cost for the project will be financed, when eligible for federal participation, on the basis of 80 percent federal transportation enhancement funds and 20 percent AGENCY funds, not to exceed a maximum sum of \$80,800.00 in federal funds. The estimated cost and participation by the various parties is as follows:

	<u>Total Estimated Cost</u>	<u>Estimated Federal Funds</u>	<u>Estimated Agency Funds</u>	<u>Estimated State Funds</u>
Construction (Including Professional Fees for Construction Engineering and Inspection)	\$101,000.00	\$80,800.00	\$20,200.00	\$0

Plans for constructing improvements under this project will be developed by or for the AGENCY at no expense to the STATE or FHWA. Construction of improvements under this agreement will be construction by contract in keeping with applicable competitive bid laws. Necessary engineering and inspection during construction will be performed by or for the AGENCY and will be paid for with federal funds. Any cost incurred by the AGENCY relating to this project which is determined to be ineligible for reimbursement by the FHWA or in excess of the limiting amount previously stated will be borne and paid by the AGENCY with no liability of the STATE for any such cost.

2. Exhibits M, N and O are hereby attached to and made a part of this Agreement. All other and remaining provisions of the Agreement of December 13, 2010 shall remain the same.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by those officers, officials and persons duly authorized to execute same, and the Agreement is deemed to be dated and to be effective on the date hereinafter stated as the date of its approval by the Governor of Alabama.

ATTEST:

City of Decatur, Alabama

By: \_\_\_\_\_  
City Clerk (Signature)

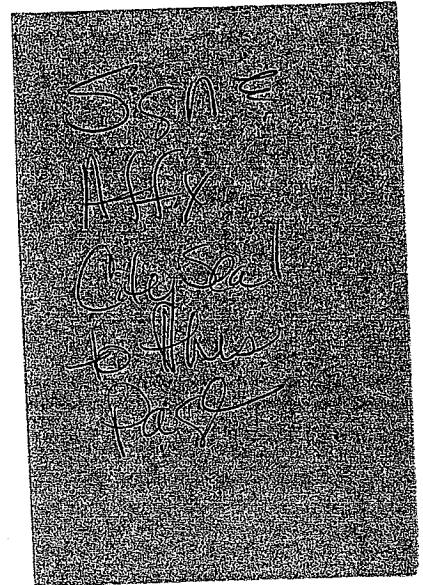
By: \_\_\_\_\_  
As Mayor (Signature)

\_\_\_\_\_  
Type Name of Clerk

\_\_\_\_\_  
Type Name of Mayor

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Jim R. Ippolito, Jr.  
Chief Counsel  
Alabama Department of Transportation



RECOMMENDED FOR APPROVAL:

\_\_\_\_\_  
James Brown, Division Engineer

\_\_\_\_\_  
Robert J. Jilla  
Multimodal Transportation Engineer

\_\_\_\_\_  
G. M. Harper, P.E.  
Acting Chief Engineer

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

\_\_\_\_\_  
John R. Cooper, Transportation Director

The foregoing Agreement is hereby executed in the name of the State of Alabama and signed by the Governor on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Robert Bentley  
Governor, State of Alabama

RESOLUTION NUMBER 12- 430

BE IT RESOLVED, by the City of Decatur as follows:

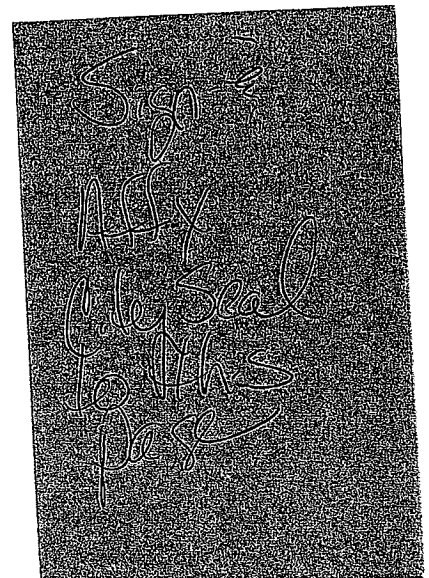
1. That the City enter into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation relating to a Transportation Enhancement project with partial funding by the Federal Highway Administration, which agreement is before this Council;
2. That the agreement be executed in the name of the City, for and on behalf of the City, by it's Mayor.
3. That it be attested by the Clerk and the seal of the City affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the agreement by all parties, that a copy of such agreement be kept on file by the City Council.

I, the undersigned qualified and acting City Clerk of the City of Decatur, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City Council named therein, at a regular meeting of such Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and that such resolution is on file in the City Clerk's Office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk



**CERTIFICATION FOR FEDERAL-AID CONTRACTS: LOBBYING**

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative AGREEMENT, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the prospective participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

**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 State 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 statute 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.

In any controversy concerning contract terms, or on a question of fact in connection with the work covered by this project, including compensation for such work, the decision of the Transportation Director regarding the matter in issue or dispute shall be final and conclusive on all parties.

For any and all disputes arising under the terms of this contract, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to consider using appropriate forms of non-binding alternative dispute resolution.

**TERMINATION DUE TO INSUFFICIENT FUNDS**

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

**NO GOVERNMENT OBLIGATION TO THIRD PARTY CONTRACTORS**

The STATE and CONSULTANT acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations of or liabilities to the STATE, CONSULTANT, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The CONSULTANT agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided to FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**COOPERATIVE MAINTENANCE PROVISIONS**

1. The STATE'S Division Office, Bureau of Maintenance, Landscape Architect, and in the case of interstate highways, the Federal Highway Administration, shall review and approve all final plans and specifications prior to advertisement for construction bids.
2. The AGENCY agrees to maintain the vegetative cover within the project boundaries by means of mowing with a flail or rotary mower and hand trimming such that a clean and attractive appearance is obtained. Mowing operations shall be conducted when the height of the vegetative cover (turf and ground cover) reaches 12 inches. Reschedule mowing operations in accordance with the planned frequency. In the event that shrubs and/or trees are planted within the area, trimming and weeding in and around the plant materials shall be done in conjunction with mowing to obtain a clean and attractive appearance. Clippings or other incidental debris (such as branches, trash, etc.) shall be removed if moundings of the clippings or other incidental debris occurs. Note: The AGENCY agrees to remove or cut to below 4 inches any vegetation that exceeds clear zone standards as defined in the AASHTO "Guide for Transportation Landscape and Environmental Design." For example: trees and shrubs whose ultimate trunk diameter exceeds 4 inches. The AGENCY will immediately remedy any and all clear zone and sight encroachments in accordance with AASHTO's "Transportation Landscape and Environmental Design Guide."
3. The AGENCY will see that adequate sight distances are maintained for maximum public safety; otherwise, the STATE reserves the right to remedy this situation in the most expedient manner.

4. The STATE is not responsible for the safety of the individuals involved or taking part in this work during maintenance operations. Signs indicating "MEN WORKING" can be obtained from the STATE prior to work and must be returned after completion of work.
5. If STATE construction (repair of drainage and traffic structures, crossovers and other minor construction) is done in the subject area, it will be the responsibility of the STATE to establish a stand of vegetative cover if deemed necessary by the STATE and then the AGENCY's responsibility to maintain the vegetative cover as stipulated herein.
6. All work shall be subject to the inspection and approval of the STATE. A detailed description of the proposed work must accompany this and any associated proposal. The STATE does not grant applicant any right, title, or claim on any highway right-of-way.
7. The AGENCY agrees to store no equipment, branches, mounds of clippings or plant debris of any kind or any other material on the shoulders of pavement and in the case of multi-lane highways, in the median strips. The pavement will be kept free from waste (clippings, mud and other debris) and equipment.
8. The AGENCY shall be solely responsible for and hold harmless the STATE for any claim for damage done to existing private property, public utility, or the traveling public.
9. All disturbed areas shall be topsoiled, and re-vegetated by the AGENCY in accordance with standard specifications of the STATE.
10. In accomplishment of the work by the AGENCY, or its contractor, no drainage structures or channels will be changed or altered other than as shown on the project plans.
11. Failure of the AGENCY to conform to the provisions of this Agreement will be cause to terminate this Agreement. Notification prior to termination will be made by the STATE.