

Council Member _____ introduced the following Resolution, which was seconded by Council Member _____.



RESOLUTION 042825-I

**RESOLUTION AUTHORIZING AGREEMENT WITH THE STATE OF ALABAMA
ACTING THROUGH ALDOT FOR PROJECT ATRP2-59-2025-072
TRAFFIC SIGNAL UPGRADES TO SIX SIGNALS ON SR-119**

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

That the City enter into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation relating to a project for:

**Traffic signal upgrades to six signals on SR-119; Project# ATRP2-59-2025-072;
CPMS Ref# 100079798 and 100080356.**

The City will be responsible for 20% of costs of this (up to) \$2.0M project and 100% of all cost overruns that exceed \$2.0M.

Which agreement is before this Council, and that the agreement be executed in the name of the City, by the Mayor for and on its behalf and that it be attested by the City Clerk and the official seal of the City be 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.

	Y / N		Y / N
Sophie Martin	_____	Jamie Cole	_____
Rick Ellis	_____	Zach Zahariadis	_____
Stacy Rakestraw	_____	Kerri Pate	_____
Greg Farrell	_____		

PASSED, ADOPTED, AND APPROVED THIS 28TH DAY OF APRIL 2025.

ATTEST: CITY OF ALABASTER

_____ J. Mark Frey, City Clerk	_____ Sophie Martin, Council President
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APPROVED:

Scott Brakefield, Mayor

I, the undersigned qualified and acting clerk of the City of Alabaster Alabama, do hereby certify that the above and foregoing is a true copy of a resolution passed and adopted by the City Council named therein, at a regular meeting of such Council held on the **28th day of April 2025**, and that such resolution is of record in the office of the City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Alabaster on this **28th day of April 2025**.

City Clerk

**PRELIMINARY ENGINEERING
AND
CONSTRUCTION
AGREEMENT
FOR A
ALABAMA TRANSPORTATION REHABILITATION
AND IMPROVEMENT PROGRAM II
PROJECT**

**BETWEEN THE STATE OF ALABAMA
AND THE
CITY OF ALABASTER
St. Clair County**

**Project No. ATRP2-59-2025-072
CPMS Ref# 100079798 & 100080356**

PART ONE (1): INTRODUCTION

This 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 the STATE; and the City of Alabaster, Alabama, hereinafter referred to as the CITY.

WHEREAS, the STATE and the CITY desire to cooperate in the traffic signal upgrades to six signals on SR-119; Project# ATRP2-59-2025-072; CPMS Ref# 100079798 and 100080356.

NOW, THEREFORE, it is mutually agreed between the STATE and the CITY as follows:

PART TWO (2): FUNDING PROVISIONS

A. **Project Funding:** The STATE will not be liable for State funds in excess of the State's share of the cost hereinafter set forth. Alabama Transportation Rehabilitation and Improvement Program II (ATRIP II) Funds shall be limited to \$2,000,000.00 for this project. Any deficiency in ATRIP II funds or overrun in project costs will be borne by the CITY from CITY funds. In the event of an underrun in project costs, the ATRIP II funds will not exceed total project costs.

B. The estimated cost and participation by the various parties is as follows:

<u>PRELIMINARY ENGINEERING</u>	<u>ESTIMATED COST</u>
ATRIP II Funds (PE Review)	<u>\$ 20,000.00</u>
 <u>CONSTRUCTION</u>	
ATRIP II Funds	<u>\$1,980,000.00</u>
 <u>TOTAL (Incl. E&D)</u>	<u>\$2,000,000.00</u>

C. **Time Limit:** This project will commence upon written authorization to proceed from the STATE directed to the CITY.

The approved allocation of funds for projects containing Alabama Transportation Rehabilitation and Improvement Program funds may lapse if a project has not been authorized within (24) months of the date of the funding approval by the Governor, and the approved allocation shall be returned to the STATE for re-allocation. A time extension may be approved by the STATE upon formal request by the applicant. Failure to meet other project milestones, as set forth in the ATRIP II Guidelines, may result in an approved allocation being returned to the STATE.

PART THREE (3): PROJECT SERVICES

A. The Right-of-Way acquisition phase is hereby defined as the appraisal fees, appraisal review fees and the cost of acquisition incurred.

The CITY will furnish all Right-of-Way for the project on CITY Right-of-Way and the STATE will furnish all Right-of-Way for the project on STATE Right-of-Way. The Right-of-Way acquisition phase is hereby defined as the appraisal fees, appraisal review fees and the cost of acquisition incurred.

An initial consultation to determine Right-of-Way requirements shall take place between the STATE and CITY prior to authorization of the Construction budget. Any Right-of-Way acquired that will be owned and maintained by the STATE will be acquired by the STATE with associated Right-of-Way acquisition costs as to not be an eligible cost to this Agreement. Any Right-of-Way acquired that will be owned and maintained by the CITY will be acquired by the CITY with associated Right-of-Way costs to not be an eligible cost as part of this Agreement.

Regarding CITY Right-of-Way, work accomplished under the provisions of this agreement will be accomplished on property owned by or which will be acquired by the CITY in accordance with applicable Federal and state laws, regulations, and procedures. Any exceptions to this requirement must be approved by the STATE in writing prior to incurring costs for which reimbursement is requested by the CITY. In cases where property is leased, or easements obtained, the terms of the lease or easement will not be less than the expected life of the improvements.

Acquisition of real property by the CITY as a part of this project will conform to and be in accordance with the provisions of the Federal Uniform Relocation Assistance & Real Property Acquisition Policies Act (49 CFR 24, Subpart B), all federal environmental laws, and all other applicable state and federal laws.

Any property acquired by the CITY shall be in the name of the CITY with any condemnation or other legal proceedings being performed by the CITY.

The CITY shall follow all Federal regulations related to the Management, Leasing, and Disposal of Right-of-Way, uneconomic remnants and excess Right-of-Way as found in CFR 23 § 710 Subpart D. Proceeds for Leases and Disposals shall be credited to the Project or to the Title 23 Collector Account.

No change in use or ownership of real property acquired or improved with funds provided under the terms of this Agreement will be permitted without prior written approval from the STATE or FHWA. The STATE or FHWA will be credited on a prorata share, as provided in Part Two, Section B, any revenues received by the CITY from the sale or lease of property.

B. The CITY will relocate any utilities in conflict with the project improvements in accordance with applicable Federal and State laws, regulations, and procedures. Associated Utility costs will not be an eligible cost as part of this Agreement.

- C. The CITY will make the Survey, perform the Design, complete the Plans and furnish all Preliminary Engineering for the project with CITY forces or with a consultant approved by the STATE. Associated Survey, Design, Plan Preparation, and Preliminary Engineering costs will not be an eligible cost as part of this Agreement. Only charges made by the STATE to review plans prepared for this project will be an eligible cost as part of this agreement

If any Associated Survey, Design, Plan Preparation, and Preliminary Engineering costs are an eligible cost to the project, the CITY will develop and submit to the STATE a project budget for approval. This budget will be in such form and detail as may be required by the STATE. At a minimum, all major work activities will be described, and an estimated cost and source of funds will be indicated for each activity. A signature line will be provided for approval by the Region Engineer and date of such approval. All cost for which the CITY seeks reimbursement must be included in a budget approved by the STATE in order to be considered for reimbursement. Budget adjustments may be necessary and may be allowed, subject to the approval of the STATE in writing, in order to successfully carry out the project. However, under no circumstances will the CITY be reimbursed for expenditures over and beyond the amount approved by the STATE.

The CITY will undertake the project in accordance with this Agreement, plans approved by the STATE and the requirements, and provisions, including the documents relating thereto, developed by the CITY and approved by the STATE. The plans, including the documents relating thereto, is of record in the Alabama Department of Transportation and is hereby incorporated in and made a part of this Agreement by reference. It is understood by the CITY that failure of the CITY to carry out the project in accordance with this Agreement and approved plans, including documents related thereto, may result in the loss of federal or state funding and the refund of any federal or state funds previously received on the project.

- D. The STATE will furnish all construction engineering for the project with STATE forces or with a consultant as an eligible cost to the project.
- E. The STATE will furnish the necessary inspection and testing of materials when needed as part of the cost of the project.

PART FOUR (4): CONTRACT PROVISIONS

- A. Associated Construction cost will be an eligible cost as part of this Agreement.
- The project will be let to contract by the STATE. The STATE will be responsible for advertisement and receipt of bids, and the award of the Contract. Following the receipt of bids and prior to the award of the Contract, the STATE will invoice the CITY for its pro rata share of the estimated cost as reflected by the bid of the successful bidder plus Engineering & Inspection and Indirect Costs (if applicable). The CITY shall pay this amount to the STATE no later than 30 days after the date bids are opened. Failure to do so may lead to the rejection of the bid.
- B. If necessary, the STATE will file an Alabama Department of Environmental Management (ADEM) National Pollutant Discharge Elimination System (NPDES) Notice of Registration (NOR) (Code Chapter 335-6-12) for this project without cost to this project. The STATE will be the permittee of record with ADEM for the permit. The STATE and the contractor will be responsible for compliance with the permit.
- If necessary, the CITY will secure all permits and licenses of every nature and description applicable to the project in any manner and will conform to and comply with the requirements of any such permit or license, and with each and every requirement of any and all agencies, and of any and all lawful authorities having jurisdiction or requirements applicable to the project or to the project activities.
- C. The STATE will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, Latest Edition, on this project and will ensure that work associated on this project meets the standards of the Alabama Department of Transportation and the project will be built in accordance with the approved plans.
- D. Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), the CITY shall indemnify, and hold harmless the State of Alabama, the Alabama Department of Transportation, its officers, officials, agents, servants, and employees from and against (1) claims, damages, losses, and expenses, including but not limited to attorneys' fees arising out of, connected with, resulting from or related to the work performed by the CITY, or its officers, employees, contracts, agents or assigns (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the CITY pursuant to the terms of this Agreement, or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but not limited to attorneys' fees, caused by the negligent, careless or unskillful acts of the CITY its agents, servants, representatives or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the CITY, its agents, servants, representatives or employees, or anyone for whose acts the CITY may be liable.
- E. The STATE will be obligated for the payment of damages occasioned to private property, public utilities or the general public, caused by the legal liability (in accordance with Alabama and/or Federal law) of the STATE, its agents, servants, employees or facilities.
- F. Upon completion and acceptance of this project by the State, the CITY will assume full ownership and responsibility for the project work on CITY Right-of-Way and maintain the project on CITY Right-of-Way in accordance with applicable State.

PART FIVE (5): ACCOUNTING PROVISIONS

- A. The CITY will not assign any portion of the work to be performed under this Agreement or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement, without the prior written approval of the STATE.
- B. The STATE will establish and maintain a cost accounting system that must be adequate and acceptable to the STATE as determined by the auditor of the STATE.

All charges to the Project will be supported by properly executed invoices, contracts, or vouchers, as applicable, evidencing in proper detail the nature and propriety of the charges, in accordance with the requirements of the STATE. All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the project will be clearly identified, readily accessible and to the maximum extent feasible, kept separate and apart from all other such documents.

The STATE will report the progress of the project. The STATE will also provide any information requested regarding the project under the Alabama Open Records Act.

The STATE will permit, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, to inspect, at any time, vehicles and equipment utilized or used in performance of the project; any and all data and records which in any way relate to the project or to the accomplishment of the project. The STATE will also permit the above noted persons to audit the books, records and accounts pertaining to the project at any and all times, and the STATE will give its full cooperation to those persons or their authorized representatives, as applicable.

The STATE will comply with all audit requirements set forth in the 2 CFR Part 200 requirements, or the most current version of those requirements under federal law.

- C. The STATE will retain all books, records, and other documents relative to this Agreement for a minimum of three (3) years after project termination, expiration of Federal interest, or close out, and the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, will have full access to, and right to examine any of said materials at all reasonable times during said period.
- D. Any user fee or charge to the public for access to any property or services provided through the funds made available under this agreement, if not prohibited by a Federal, State or local law, must be applied for the maintenance and long-term upkeep of the project authorized by this agreement.
- E. An audit report must be filed with the Department of Examiners of Public Accounts, upon receipt by the STATE, for any audit performed on this project in accordance with Act No. 94-414 and Act No. 2019-2 (Rebuild Alabama Act).

PART SIX (6): MISCELLANEOUS PROVISIONS

- A. By entering into this agreement, the CITY is not an agent of the STATE, its officers, employees, agents or assigns. The CITY is an independent entity from the STATE and nothing in this agreement creates an agency relationship between the parties.
- B. It is agreed that the terms and commitments contained in this agreement 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 26. It is further agreed that if any provision of this agreement shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this agreement, be enacted, then the conflicting provision in this agreement shall be deemed null and void.
- C. By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate Federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.
- D. No member, officer, or employee of the CITY during their tenure of employment, and for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds, profits, or benefits therefrom.
- E. The terms of this Agreement may be modified by revision of this Agreement duly executed by the parties hereto.
- F. This agreement may be terminated by either party upon the delivery of a thirty (30) day notice of termination.
- G. Nothing shall be construed under the terms of this Agreement that shall cause any conflict with Section 23-1-63, Code of Alabama, 1975.
- H. Exhibits A, E, H, M, and N are hereby attached to and made a part of this Agreement.

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 Alabaster, Alabama

By: _____	By: _____
City Clerk (Signature)	As Mayor (Signature)
_____	_____
Type Name of Clerk	Type Name of Mayor
(AFFIX SEAL)	

This contract has been legally reviewed and approved as to form.

By: _____
Legal Counsel for
Alabama Department of Transportation

RECOMMENDED FOR APPROVAL:

DeJarvis Leonard, P.E.	Bradley B. Lindsey, P.E.
East Central Region Engineer	State Local Transportation Engineer

Edward N. Austin, P. E.
Chief Engineer
STATE OF ALABAMA, ACTING BY AND THROUGH
THE ALABAMA DEPARTMENT OF TRANSPORTATION

John R. Cooper, Transportation Director

THE WITHIN AND FOREGOING AGREEMENT IS HEREBY EXECUTED AND SIGNED BY THE GOVERNOR ON THIS _____ DAY OF _____, 20_____.

KAY IVEY
GOVERNOR, STATE OF ALABAMA