

RESOLUTION NO. 17-

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and is hereby authorized, to enter into a non-reimbursable agreement between the City of Huntsville and Southern Light for Relocation of Existing Utility Facilities on Public Right-of-Way Work for Martin Road between Old Jim Williams and Zierdt Road, Project No. 65-10-RD07, in the County of Madison, Huntsville, Alabama, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama. Non-Reimbursable Agreement is substantially in words and figures similar to that document attached hereto and identified as "Non-Reimbursable Agreement between the City of Huntsville and Southern Light for Relocation of Existing Utility Facilities on Public Right-of-Way Work for Martin Road between Old Jim Williams and Zierdt Road, Project No. 65-10-RD07" consisting of a total of four (4) pages and the date of September 14, 2017, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, and an executed copy of said document being permanently kept on file in the Office of the City Clerk of the City of Huntsville, Alabama.

ADOPTED this the 14th day of September, 2017.

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

APPROVED this the 14th day of September, 2017.

Mayor of the City of Huntsville,
Alabama

**NON-REIMBURSABLE AGREEMENT
FOR RELOCATION OF UTILITY FACILITIES ON PUBLIC RIGHT-OF-WAY**

PROJECT NUMBER	<u>ACAA60160F-ATRP(012)</u>
ATRIIP NUMBER	<u>45-02-20</u>
CITY	<u>Huntsville</u>

THIS AGREEMENT is entered into by and between the CITY of Huntsville, acting by and through its CITY COUNCIL, hereinafter referred to as the CITY, and Southern Light, hereinafter referred to as the UTILITY.

WITNESSETH:

WHEREAS, the CITY proposes a project of certain highway improvements in Huntsville CITY, Alabama, said project being designated as Project No. ACAA60160F-ATRP(012) and consisting approximately of the following: Relocating Existing utilities for Martin Road Additional Lanes project between Old Jim Williams Road and Zlerdt Road; and

WHEREAS, the UTILITY is the owner of certain facilities located on public right-of-way at places where they will interfere with the construction of said project unless said facilities are relocated; and

WHEREAS, the CITY has determined that the relocation of the facilities referred to is necessitated by the construction of said project and has ordered the UTILITY to relocate same; and

WHEREAS, under the laws of Alabama, the UTILITY is required to relocate said facilities at its own expense;

NOW, THEREFORE, the parties hereto agree as follows:

1. The UTILITY will relocate its facilities presently located within the right-of-way limits of the above referenced project in accordance with the UTILITY'S plans as approved by the CITY, so as to occasion the least possible interference with the progress of the project. The UTILITY'S plans are transmitted herewith and made a part hereof by reference. The UTILITY will furnish the CITY a copy of its "as built" plans at the completion of the relocation.
2. The UTILITY will conform to the provisions of the latest edition of the State of Alabama Department of Transportation Utility Manual, as the provisions thereof are applicable hereto, for both installation and maintenance of such facilities. Such Utility Manual is of record within the Alabama Department of Transportation at the execution of this Agreement and is hereby made a part hereof by reference.
3. The UTILITY will conform to the provisions of the Federal Highway Administration Manual on Uniform Traffic Control Devices (MUTCD), latest edition, as the provisions thereof are applicable hereto, for both installation and maintenance of such facilities. Such manual is of record within the Alabama Department of Transportation at the execution of this Agreement and is hereby made a part hereof by reference.

**President of the City Council of the City
of Huntsville, AL**
Date: September 14, 2017

4. Code of Federal Regulations 23 CFR 645 is hereby made a part hereof by reference and will be conformed to by the **UTILITY** as the provisions thereof are applicable hereto.
5. The **UTILITY** will observe and comply with the provisions of all Federal, State and Municipal laws and regulations as the provisions thereof are applicable hereto in the performance of work hereunder, including the Clean Water Act of 1987, the Alabama Nonpoint Source Management Program of 1989, and the regulations of the Environmental Protection Agency (EPA) and the Alabama Department of Environmental Management (ADEM). The **UTILITY** will procure and pay for all licenses and permits that are necessary for its performance of the work.
6. By signing this contract, the **CITY** and **UTILITY** 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.
7. Reimbursement for future relocation of the **UTILITY'S** facilities will be in accordance with State law in effect at the time such relocation is made.
8. The **UTILITY** 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 **UTILITY**, its agents, servants, employees or facilities.
9. The **UTILITY** will have a copy of this Agreement on the project site at all times while work is being performed under this Agreement.
10. The **CITY** will furnish the **STATE**, in writing, six (6) weeks prior to the State's project letting date, a "Utility Certification" letter with a time frame for beginning and ending the required relocation work.
11. Nothing contained in this Agreement, or in its execution, shall be construed to alter or affect the title of the **CITY** to the public right-of-way nor to increase, decrease or modify in any way the rights of the **UTILITY** provided by law with respect to the construction, operation or maintenance of its facilities on the public right-of-way.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, officials or persons thereunto duly authorized on this 16th day of August, 2017.

WITNESS:

K. Shinto

BY:

Southern Light, LLC

(Legal Name of Utility)

Michael McCarty II

(Signature)

Michael McCarty

(Type or Printed Name)

OSP Director

(Type or Printed Title)

107 Saint Francis St. Suite 1800

(Address)

Mobile, AL 36602

(Address)

(251) 445-8651

(Telephone)

RECOMMENDED FOR APPROVAL:

BY:

CITY ENGINEER/ENGINEER-OF-RECORD

BY:

REGION ENGINEER

CITY OF _____

BY:

MAYOR

APPROVED:

BY:

INNOVATIVE PROGRAMS ENGINEER

DATE: _____

EXHIBIT S

State Contract ID#: _____
Federal-Aid Project#: **ACAA60160-ATRP(012); City of Huntsville**
State of Alabama

CERTIFICATE OF COMPLIANCE WITH ACT 2016-312:

I, the undersigned, certify to the State of Alabama as follows:

- a. I am authorized to provide representations set out in this Certificate as the official and binding act of the Contractor, and have knowledge of Alabama's Act 2016-312.
- b. In compliance with Act 2016-312, the Contractor is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

Mayor, City of Huntsville/Certifying Official (Signature)

Print Name of Mayor/Certifying Official

Date of Certification

The above Certification was signed in my presence by the person whose name appears above on this _____ day of _____, 20____.

Signature of Witness/Clerk

Print Name of Witness/Clerk