



**CITY OF TYLER  
CITY COUNCIL COMMUNICATION**

**Agenda Number:** R-1

**Date:** April 26, 2006

**Subject:** Request that the City Council consider adopting a Resolution approving the Landscape Maintenance Agreement between the State of Texas and the City of Tyler for the maintenance, control, supervision and regulation of certain State Highways and/or Portions of State Highways in the City of Tyler, and providing for the execution of said Agreement.

**Page:** 1 of 1

**Item Reference:** Texas Transportation Code Chapter 311; Texas Transportation Code Section 221.002; Municipal Maintenance Agreement dated August 8, 1997

On August 8, 1997, the City of Tyler previously entered into a Municipal Maintenance Agreement with the Texas Department of Transportation for certain maintenance responsibilities related to State Highways within the City of Tyler. Due to the increasing number of existing and proposed cost share landscaping projects with the City of Tyler, it has become necessary for the Texas Department of Transportation to supplement the existing Municipal Maintenance Agreement concerning the ongoing maintenance of such projects. The proposed Landscape Maintenance Agreement incorporates the terms of the existing Municipal Maintenance Agreement dated August 8, 1997. In addition it will include existing and proposed projects and will remain in effect for all future projects unless stated otherwise in the specific project's Advance Funding Agreement.

Under the proposed Agreement, the State of Texas will provide landscape improvements on State Highways within the City of Tyler, and the City agrees to be responsible for all required maintenance of the landscape improvements. The City is also authorized to install landscape elements, including but not limited to trees, shrubs, grasses, sidewalks, irrigation systems, and hardscape features.

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached Resolution approving the Landscape Maintenance Agreement between the State of Texas and the City of Tyler for the maintenance, control, supervision and regulation of certain State Highways and/or Portions of State Highways in the City of Tyler, and providing for the execution of said Agreement.

**Drafted/Recommended By:**  
**Department Leader**

A handwritten signature in black ink, appearing to read 'A. L. Smith', is written over the signature line.

**Edited/Submitted By:**  
**City Manager**

**RESOLUTION NO. R-2006-13**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, APPROVING A LANDSCAPE MAINTENANCE AGREEMENT BETWEEN THE STATE OF TEXAS AND THE CITY OF TYLER, TEXAS, FOR THE MAINTENANCE, CONTROL, SUPERVISION, AND REGULATION OF CERTAIN STATE HIGHWAYS AND/OR PORTIONS OF STATE HIGHWAYS IN THE CITY OF TYLER, TEXAS; AND PROVISING FOR THE EXECUTION OF SAID AGREEMENT.**

**WHEREAS**, it is the intent of the City Council to protect the public health, safety and welfare; and

**WHEREAS**, Chapter 311 of the Texas Transportation Code gives the City exclusive dominion, control, and jurisdiction over and under the public streets within its corporate limits and authorizes the City to enter into agreements with the State to fix responsibilities for maintenance, control, supervision, and regulation of State highways within and through its corporate limits; and

**WHEREAS**, Section 221.002 of the Texas Transportation Code authorizes the State, in its discretion, to enter into agreements with cities to fix responsibilities for maintenance, control, supervision, and regulation of State highways within and the corporate limits of such cities; and

**WHEREAS**, the State of Texas and the City of Tyler have entered into a Municipal Maintenance Agreement dated August 8, 1997, wherein the City of Tyler has agreed to retain all functions and responsibilities for maintenance and operations which are not specifically described as the responsibility of the Texas Department of Transportation; and

**WHEREAS**, the State of Texas has existing and proposed landscape improvements, such as, but not limited to, the installation of tree, shrub and turf plantings, irrigation systems, and other aesthetic elements with the right-of-way State highway routes within the City of Tyler; and

**WHEREAS**, the State of Texas will provide landscape improvements, provided that the City of Tyler agrees to be responsible for all required maintenance of the landscape improvements;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:**

**PART 1:** That the certain Landscape Maintenance Agreement dated April, 2006, between the State of Texas and the City of Tyler, Texas, and providing for the maintenance, control, supervision and regulation of certain State highways or portions thereof within the City of Tyler, is hereby approved.

**PART 2:** That the City Manager is hereby authorized to execute said Landscape Maintenance Agreement dated April, 2006, on behalf of the City of Tyler, Texas, and to transmit the same to the State of Texas for appropriate action.

**PART 3:** That this Resolution shall become effective immediately upon adoption.

**ADOPTED** this 26<sup>th</sup> day of April, 2006.

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JOSEPH O. SEEBER, MAYOR  
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

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CASSANDRA BRAGER, CITY CLERK

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CITY ATTORNEY