



Agenda
REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF MADISON, ALABAMA
6:00 PM
Council Chambers
July 10, 2023

AGENDA NO. 2023-13-RG

City Council meetings are broadcast live on local Wow! Channel 42 and online streaming (visit <https://www.madisonal.gov/709/view-city-council-meeting> for access). Members of the public who would like to weigh in on a Council matter but do not want to attend, may contact the City Clerk's Office or the Mayor's Office (contact information on City website www.madisonal.gov) or text the word "comment" to 938-200-8560

1. CALL TO ORDER

2. INVOCATION

A. Pastor Troy L. Garner, The Fellowship of Faith Church

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL OF ELECTED GOVERNING OFFICIALS

5. AMENDMENTS TO AGENDA

6. APPROVAL OF MINUTES

A. Minutes No. 2023-06-WS, dated June 21, 2023

B. Minutes No. 2023-12-RG, dated June 26, 2023

7. PRESENTATIONS AND AWARDS

8. PUBLIC COMMENTS

Public comments pertaining to agenda-related items are limited to 3 minutes per speaker. Anyone who would like to sign up prior to the Council meeting may contact the City Clerk at cityclerk@madisonal.gov. Anyone who would like to submit a presentation to the City Council must email it to the City Clerk by noon on the Friday prior to the meeting. Anyone who cannot attend the meeting in person and would like to email written comments must do so by noon of the Council meeting date, and address comments to citycouncil@madisonal.gov

9. CONSENT AGENDA AND FINANCE COMMITTEE REPORT

A. Regular and periodic bills to be paid

B. **Resolution No. 2023-225-R:** Providing for the disposal of personal property of negligible value (2008 Nissan Xterra and 2012 Jeep Liberty) via online auction through GovDeals website pursuant to Section 16-108 of the Code of Ordinances of the City of Madison

C. **Resolution No. 2023-226-R:** Providing for the disposal of personal property formerly used by the Police Department (Scan Snap Color Imaging Scanner Serial #029561 Model #S500 City Asset Tag 05000 and Dell Laptop Model# PP04X City Asset Tag 0554) that is declared surplus as it has no useful life or fixed asset value pursuant to Section 16-108 of the Code of Ordinances of the City of Madison

D. Authorization of payment to Midsouth Paving Inc. in the amount of \$103,838.14 for Project No. 21-017 | Hughes Road at Will Halsey Way (Invoice No. 403235-001Rev1) (to be paid from 2020-A Bond account)

E. Authorization to solicit bids for construction of ADA sidewalk ramps in Homeplace Subdivision

10. PRESENTATIONS OF REPORTS

MAYOR PAUL FINLEY

COUNCIL DISTRICT NO. 1 MAURA WROBLEWSKI

COUNCIL DISTRICT NO. 2 CONNIE SPEARS

COUNCIL DISTRICT NO. 3 TEDDY POWELL

COUNCIL DISTRICT NO. 4 GREG SHAW

COUNCIL DISTRICT NO. 5 RANAE BARTLETT

COUNCIL DISTRICT NO. 6 KAREN DENZINE

COUNCIL DISTRICT NO. 7 JOHN SEIFERT

11. BOARD/COMMITTEE APPOINTMENTS

A. Appointment to Place No. 5 of the Madison Police Citizen Advisory Committee of the City of Madison with a term expiration of April 26, 2025

12. PUBLIC HEARINGS

Public comments during public hearings are limited to 5 minutes per speaker. Anyone who would like to sign up prior to the Council meeting may contact the City Clerk at cityclerk@madisonal.gov. Anyone who would like to submit a presentation to the City Council must email it to the City Clerk no later than noon on the Friday prior to the meeting. Anyone would cannot attend the meeting in person and would like to email written comments must do so by noon of the Council meeting date and address comments to citycouncil@madisonal.gov.

A. **Resolution No. 2023-223-R:** Authorizing a manufacturer liquor license for Guajana Distillery LLC. (doing business as Guajana Distillery) for their location at 9582 Madison Boulevard, Suites 1, 2, and 3

13. DEPARTMENT REPORTS

ENGINEERING

A. **Resolution No. 2023-227-R:** Authorizing Change Order No. 2 on contract with AECOM Technical Services, Inc. for Project No. 2022-009-ITB: City of Madison Interchange (\$259,751.80 to be paid from 2022 Flyover Bond Issue)

LEGAL

A. **Proposed Ordinance No. 2023-128:** Authorizing a Franchise Agreement with Crown Castle Fiber, LLC for small cell placement and installation of fiber lines (First Reading)

- B. **Proposed Ordinance No. 2023-134**: Authorizing a Franchise Agreement with Knology of Huntsville, Inc (doing business as WOW!) for the operation and maintenance of a cable and broadband system within the City of Madison (First Reading 06/26/2023)

PLANNING

- A. **Proposed Ordinance No. 2023-220**: Vacation of utility and drainage easement located within 120 Lake Crest Drive, Lot 29 of Silver Creek Subdivision Phase V (First Reading)
- B. **Proposed Ordinance No. 2023-221**: Vacation of utility and drainage easement located within Lots 26-38 of The Heights at Town Madison Phase 5 (First Reading)

RECREATION

- A. **Resolution No. 2023-211-R**: Authorizing a contract with Ogle Tree Service, LLC for the removal of hazard trees on the Bradford Creek Greenway in the amount of \$18,000 (to be paid from Recreation Department budget)
- B. **Resolution No. 2023-222-R**: Authorizing a contract with Baseline Sports Construction, LLC in the amount of \$128,253 for Intergraph Park LED lighting installation (to be paid from Fund 38)

REVENUE

- A. **Proposed Ordinance No.2023-210**: Amending Chapter 10 of City Code to add NAICS Business License Titles (Liquor- Manufacturer and Media Streaming Distribution) (First Reading)

14. ADDITIONAL PUBLIC COMMENTS

Public comments are limited to 3 minutes per speaker. Anyone who would like to sign up prior to the Council meeting may contact the City Clerk at cityclerk@madisonal.gov. Anyone who would like to submit a presentation to the City Council must email it to the City Clerk by noon on the Friday prior to the meeting. Anyone who cannot attend the meeting in person and would like to email written comments must do so by noon of the Council meeting date, and address comments to citycouncil@madisonal.gov

15. MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

16. ADJOURNMENT

Agenda Note: It should be noted that there are times when circumstances arise that require items be added to or deleted from the agenda at time of the Council meeting. Also, all attached documents are to be considered a draft until approved by Council.

All attendees are advised that Council meetings are televised and that their statements and actions are therefore viewed by more than just those attending the meetings.



**MINUTES NO. 2023-06-WS
PUBLIC WORK SESSION OF THE CITY COUNCIL
OF THE CITY OF MADISON, ALABAMA
June 21, 2023**

The Madison City Council met for a public work session on Wednesday, June 21, 2023, at 5:30 p.m. in the Council Chambers of the Madison Municipal Complex, Madison, Alabama. Noting that a quorum was present, the meeting was called to order at 5:30 p.m. by Council President Ranae Bartlett.

The following Council Members were in attendance:

Council District No. 1 Maura Wroblewski	Present
Council District No. 2 Connie Spears	Present
Council District No. 3 Teddy Powell	Present
Council District No. 4 Greg Shaw	Absent
Council District No. 5 Ranae Bartlett	Present
Council District No. 6 Karen Denzine	Present
Council District No. 7 John Seifert	Present

City Officials in attendance were: City Clerk-Treasurer Lisa D. Thomas, Deputy City Clerk-Treasurer Kerri Sulyma, City Attorney Brian Kilgore, Fire Chief David Bailey, Police Chief Johnny Gandy, Director of Development Services Mary Beth Broeren, Assistant Planner Kali Zimmerman, Assistant Planner Matt Davidson, Information Technology Director Chris White, Information Technology Support Technician Toby Jenkins, Information Technology Support Technician Rhianna O'Reilly, and Parks & Recreation Director Kory Alfred

Council President Bartlett announced the change of order on the agenda to begin with Dublin Park.

DUBLIN PARK – EXERCISE STATIONS

Mr. Sandy Patel appeared before City Council and Mayor Finley to present building 8-10 exercise stations along the 1.1-mile walking trail at Dublin Park. Mr. Patel stated after discussions with Parks & Recreation Director Kory Alfred the stations would consist of a concrete pad, stretching and pull-up apparatuses like other parks throughout the area. Construction consists of treated wood, metal bars and bolts with zero maintenance and could last up to 25 years. Mr. Patel further described the cost and labor as:

- Assistance of Parks and Recreation Department and Public Works for concrete and excavation work
- Community volunteers to prefab wood cut to size, drilled and installed
- Community fundraising to cover cost of supplies estimated to be under \$5,000

Mr. Patel stated he is working with Parks & Recreation Director Kory Alfred to determine the best time of year the park has the least activity to begin the project so as not to interfere with other sports programs. Mr. Patel advised that Parks & Recreation Director Kory Alfred presented and received approval from the Parks and Recreation Advisory Board and is now seeking approval from City Council to proceed.

Council Member Seifert thanked Mr. Patel for being flexible throughout the process and all he is needing help with is excavation and pouring of the concrete pads.

Mr. Patel stated the location of the stations will be coordinated with Director of Parks and Recreation Kory Alfred. Council Member Seifert added the project has been presented to the Parks and Recreation Advisory Board multiple times for their input and has been approved.

Council Member Powell asked if we were just providing labor and not materials other than concrete. Mr. Patel confirmed just the concrete and what he understands from Parks and Recreation Director Kory Alfred is that Dublin Park is the only location that can have the fitness stations due to flood areas on flatter greenways along the creek.

Council Member Spears asked Director of Parks and Recreation Kory Alfred if enough money was in the budget to cover the costs of excavation and concrete. Director of Parks and Recreation Kory Alfred affirmed yes, stating the only stipulation from the Parks and Recreation Advisory Board was that Mr. Patel has a long-term maintenance plan and if equipment becomes in disrepair, they will be removed with the replacement of benches or something else.

Council Member Powell asked if portions of the funds come out of the Public Works and Parks and Recreation budget. Parks and Recreation Director Cory Alfred replied that it will come out of the Parks and Recreation budget, the only thing needed from Public Works is to borrow the equipment as he has two employees with masonry experience to pour the concrete pads once leveled.

MURAL GUIDELINES

Director of Development Services Mary Beth Broeren updated Council regarding the draft guidelines submitted to Council at the May 8th Work Session meeting. Following that meeting the draft was circulated to Madison Visionary Partners, Historic Preservation Commission Members, Staff, and City Attorney Brian Kilgore for their input. Director of Development Services Mary Beth Broeren provided Council a revised draft of the guidelines describing the following key provisions:

- Definition of a mural
- Determining from type of graphic if it qualifies as a sign or mural
- Added Public Property
- Must be visible from a street, pedestrian path or publicly accessible space

Director of Development Services Mary Beth Broeren advised that it would be optimal and helpful to have a Mural Advisory Board for the assurance of the following:

- Property owner have a maintenance plan
- Using the approved type of paint
- Installers have the proper capabilities for installation

- Property owner and artist have a worked out agreement
- Regulating obscenities

Director of Development Services Mary Beth Broeren stated what the Mural Advisory Board **will not** be doing is:

- Regulating the content of the mural due to first amendment regulations

Director of Development Services Mary Beth Broeren advised the Historic Commission currently have regulations enforced for murals in the historic district. If a new mural is proposed for the district, preferably be presented to the Mural Advisory Board first, then to the Historic Commission for a 'Certificate of Appropriateness'

Council Member Spears asked if a mural referenced something illegal, for example a marijuana leaf, would that be regulated. Director of Development Services Mary Beth Broeren replied if it was a picture on private property, didn't think it can be regulated. City Attorney Brian Kilgore advised there is leeway to regulate on city property if promoting illegal activity, but harder to articulate a reason to regulate on private property and he would have to research further.

Additional revisions to the guidelines were explained by Director of Development Services Mary Beth Broeren regarding the following:

- Application fee
- Property owner to provide who would be responsible for maintenance and removal
- Provide copy of contract agreement
- How would a mural be removed if damaged due to weather or an accident determined unrepairable by an inspection
- Offer a checklist or recommendations of items to be included in a contract for property owners to consider the artists rights they have when a mural is on their property with the approval permit of a 3-to-5-year period if changes occur with the property

Director Of Development Services Mary Beth Broeren advised after discussion with Legal, this will need to be Codified and determined if it is added to a Zoning or a Municipal Ordinance. If decided within Zoning, it will first be presented to the Planning Commission, then Council. If applied to Municipal then directly to Council for first and second reading, and if another work session is necessary.

Council Member Wroblewski asked if the Madison Arts Alliance could be involved in the process of the draft guidelines and members considered for the committee. Director Of Development Services Mary Beth Broeren referred to the revised guideline draft of the recommended committee membership and any changes would be the choice of Council. Council President Bartlett questioned who and why a city employee is needed on the Advisory Board. Director of Development Services Mary Beth Broeren offered aspects of employee knowledge that would be beneficial to murals on public property such as the Parks Department or Public Works with the construction liabilities. Mayor Finley added it would help as almost a liaison to the City and Board.

Council further discussed the appointment of Board Members and staggering terms. Director of Development Services Mary Beth Broeren added that she can collectively obtain what preferences in terms of composition of the Board from Council for additional follow-up.

Council Member Powell asked if the benefit of murals is to beautify our city. Director of Development Services Mary Beth Broeren replied that some people would consider it beautiful, others want to attract attention and it might not be beautiful, others would view it as an economic development benefit as a tourist attraction for picture taking and drawing in more customers to their business.

Council Members further discussed the following pros and cons and additional options for allowing murals:

- Division of public opinions and backlash to city employees
- Family oriented city
- Business owners alienating customers
- Shorten time frame from the 3 to 5-year allowance.
- Review through the course of a year what applications are submitted and determine if murals on private property are acceptable due to content not regulated
- Only allow on public property for full content control
- Billboards are not allowed for a mural
- Interest for murals is downtown
 - Madison Visionary Partners inquired about wanting a mural and are applying for funding through a grant which wouldn't be awarded until fall.
- Council still has an adequate time frame to approve
- Opportunities for murals on public properties
 - On the side of building in Parks (Dublin, Palmer)
 - Community Center
- Council members to review further and obtain input from the community
- Research how City of Huntsville processed murals
- Legality issues
- Advertising on a business window allowed up to 25%, seasonal and not permanent
- Mural on a street would be governed
- Clarification as a must to have guidelines for a municipal ordinance and the benefit of artwork
- Flexibility to only allow in certain zoning districts or geographic areas
- Regulate size of mural
- Projections from mural must meet ADA requirements and safety concerns

Discussion concluded and Director of Development Services Mary Beth Broeren expressed thanks to Assistant Planner Kali Zimmerman and Assistant Planner Matt Davidson for their hard work and research.

MISCELLANEOUS

President Bartlett and Mayor Finley asked Director of Development Services Mary Beth Broeren to provide an update on the Comprehensive Plan.

- Consultants having regular meetings with Advisory Committee
- Baseline information available on Madison Ontrack 2045 website

- Land use projections and traffic demand modeling recommendations
- Delay of traffic modeling while waiting for completion of Hughes and Sullivan Road for updated counts - finished in March
- Consultants complete draft chapters on mobility transportation
- Additional drafts on land use
- Possible public outreach meetings in August or September
- Contain city's goals of growth, policies, transportation, parks, and public services, then implementation actions, and divided into tiers of recommended projects
- Progress a little slower than expected

Council Member Spears asked if a science museum was ever mentioned in the interest survey conducted. Director of Development Services Mary Beth Broeren stated she would have to look back at them and let her know. Council President Bartlett asked if rezoning would have to come after the comprehensive plan is adopted and if there would be recommendations within the plan. Director of Development Services Mary Beth Broeren replied that for rezoning there are map and text amendments that can occur and most of the zoning ordinance updates are drafted. Zoning map amendments could result from the following:

- Changes of land use recommendations from Comprehensive Plan
- Upzoning property
- Downzoning property from a R4 to a R3 or R2 is more difficult as it changes property value

Director of Development Services Mary Beth Broeren stated most amendments will come as text amendments and will refine standards. Director of Development Services Mary Beth Broeren also mentioned an additional component to zoning is the number of properties annexed into the city as agricultural and are now residential, so those will be rezoned to the appropriate zone which will remove a lot of the non-conformities and will be done later. Council Member Powell asked if it would fix areas that were zoned for apartments, but a house was eventually built, so that in the future if the house is removed apartment could not be built. Director of Development Services Mary Beth Broeren responded to Council Member Powell that she will review that one specifically as she is working with agriculture properties currently. Council Member Wroblewski wanted to add firearm sales not being near schools or churches or any public gathering. Director of Development Services Mary Beth Broeren replied that it is not a comprehensive plan component, but that when they get into zoning ordinance implementation she can certainly visit it along with other topics.

President Bartlett advised Council the next work session is scheduled for July 19 with proposed topics:

- Update on Comprehensive Improvement Plan
- Paving plan to Greenways and Trails Pacer Program
- Mural Guidelines
- Council Special Project Requests
 - Baby Boxes - One baby has now been surrendered to the Fire Station and basic supplies are needed

City Attorney Brian Kilgore advised Council an update in the law allowing babies to be surrendered to fire stations now along with hospitals effective in 90 days. Citizens are

becoming aware of the change in law, so the need for this is more immediate. Council Member Wroblewski asked how much funding the Fire Department would need.

Fire Chief David Bailey approached Council and Mayor Finley stating he received an update from hospital and the baby surrendered is doing well. Baby kits have been purchased along with a car seat and are in place when needed at stations. Council Member Spears expressed concern about the purchases not part of the Fire Department's budget. Fire Chief David Bailey affirmed it wasn't, also stating the hospital provides some items along with a few donations. Fire Chief David Bailey felt comfortable with the number of kits currently and if an influx occurs with surrendered babies, then he will approach Council to add additional funds from the budget.

Council President Bartlett opened a topic regarding a newspaper article about a science museum further along in happening than Council is aware of and asked Mayor Finley to provide an update.

Mayor Finley stated he will continue to get Council information as the governance crew on the possibility of having a science museum in a city owned facility. The Director of the science museum realizes where Council is at in the matter but is not communicating it in a way that Council is comfortable with. Mayor Finley expressed numerous components to the project are in the works, but for now information is being gathered to present to Council for discussion and if a decision is to proceed then eventually it will be brought to Council for a formal vote. Mayor Finley felt confident additional information may be presented at the next work session, so President Bartlett added it to the agenda.

With no other discussion Council President Bartlett advised all that they were at the part of the meeting where they needed to go into executive session.

City Attorney Brian Kilgore explained that after being advised of some subject matter that the Council wants to discuss that it would be best appropriate based on his legal opinion to go into executive session. City Attorney Brian Kilgore read the following statement and requested it to be entered into the Minutes:

"As an attorney licensed to practice law in Alabama, and as City Attorney for the City of Madison, Alabama, I am offering this declaration and Opinion pursuant to §36-25A-7(a)(6) and (7) of the Code of Alabama (1975), for the purpose of advising the Madison City Council to enter executive session during that portion of its June 21, 2023, Work Session meeting that requires the Council to discuss its consideration and willingness to offer or accept the purchase, sale, exchange, lease, or market value of real property. Furthermore, I recommend that the Council enter executive session before discussing any preliminary negotiations involving matters of trade or commerce in which the City of Madison may be in competition with private individuals or other governmental bodies."

Council President Bartlett advised that it will be the only item discussed in the Executive Session, and that voting will not take place and Council will not reconvene after the executive session, as Council will adjourn at the conclusion of Executive Session.

Council Member Wroblewski moved to enter into executive session for the purpose of such discussion. Council Member Spears seconded. The roll call vote was taken and recorded as follows:

Council President Bartlett stated with majority consent, the Council will now enter into Executive Session at 6:40 p.m. and will not reconvene adjourning the conclusion of Executive Session.

Council Member Maura Wroblewski	Aye
Council Member Connie Spears	Aye
Council Member Teddy Powell	Aye
Council Member Greg Shaw	Absent
Council Member Ranae Bartlett	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Aye

Motion carried.

ADJOURNMENT

Having no further business to discuss, the work session adjourned at 6:40 p.m.

Minutes No. 2023-06-WS, dated June 21, 2023, read, approved and adopted this 10th day of July 2023.

Council Member Maura Wroblewski
District One

Council Member Connie Spears
District Two

Council Member Teddy Powell
District Three

Council Member Greg Shaw
District Four

Council Member Ranae Bartlett
District Five

Council Member Karen Denzine
District Six

Council Member John Seifert
District Seven

Concur:

Paul Finley, Mayor
Attest:

Lisa D. Thomas
City Clerk-Treasurer

Lisa Ritz
Recording Secretary



**MINUTES NO. 2023-12-RG
REGULAR CITY COUNCIL MEETING
OF MADISON, ALABAMA
June 26, 2023**

The meeting was broadcast live on Wow! Channel 42 and online streaming at www.madisonal.gov/viewmeetings. Anyone who did not want to attend the meeting in person, but wanted to participate in Public Comments or Hearings were encouraged to contact the City Clerk or Mayor's Office via telephone or email to submit comments or questions, or text the word "Comment" to 938-200-8560

The Madison City Council met in regular session on Monday, June 26, 2023, at 6:00 p.m. in the Council Chambers of the Madison Municipal Complex, Madison, Alabama. Noting that a quorum was present, the meeting was called to order at 6:00 p.m. by Council President Ranae Bartlett.

Pastor John Dees from CrossPointe Church provided the invocation followed by the Pledge of Allegiance led by Ranae Bartlett.

ELECTED GOVERNING OFFICIALS IN ATTENDANCE

Mayor Paul Finley	Present
Council District No. 1 Maura Wroblewski	Present
Council District No. 2 Connie Spears	Present
Council District No. 3 Teddy Powell	Present
Council District No. 4 Greg Shaw	Present
Council District No. 5 Ranae Bartlett	Present
Council District No. 6 Karen Denzine	Present
Council District No. 7 John Seifert	Absent

City Officials in attendance were: City Clerk-Treasurer Lisa D. Thomas, Deputy City Clerk-Treasurer Kerri Sulyma, City Attorney Brian Kilgore, Information Technology Director Chris White, Information Technology Coordinator Toby Jenkins, Police Chief Johnny Gandy, Fire Chief David Bailey, City Engineer Michael Johnson, Director of Parks & Recreation Kory Alfred, and Director of Development Services Mary Beth Broeren.

Public Attendance registered: Margi Daly, Bernadette Mayer, Jacob Hiles

AMENDMENTS TO AGENDA

Council Member Shaw stated there is a correction to **Resolution No. 2023-213-R** under Consent Agenda. Instead of the amount of \$2,1668.19 the correct amount is \$2,188.19.

With no more amendments to the agenda Council President Bartlett approved the agenda.

APPROVAL OF MINUTES

MINUTES NO. 2023-11-RG DATED JUNE 12, 2023

Council Member Shaw moved to approve Minutes No. 2023-11-RG. Council Member Spears seconded. The roll call vote taken was recorded as follows:

Council Member Greg Shaw	Aye
Council Member Connie Spears	Aye
Council Member Ranae Bartlett	Aye
Council Member Maura Wroblewski	Aye
Council Member Teddy Powell	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

PRESENTATIONS AND AWARDS

None

PUBLIC COMMENTS-AGENDA RELATED

*Public Comments were limited to three minutes per speaker. Anyone who wanted to sign up prior to the Council meeting were able to contact the City Clerk at cityclerk@madisonal.gov or text the word "**Comment**" to 938-200-8560. Anyone who wanted to submit a presentation to the City Council were able to email it to the City Clerk by noon last Friday. Those who could not attend the meeting in person and wanted to email their written comments were advised to do so no later than noon this date via email to citycouncil@madisonal.gov.*

BEBE OETJEN

Ms. Oetjen appeared before Council and Mayor Finley to voice her concerns on the following items:

- Resolution No. 2023-216-R, what happened to the fire dept that requires repairs
- Proposed Ordinance No. 2023-134, Concerns on the authority of digging in her front yard

BERNADETTE MAYER (DISTRICT 5)

Ms. Mayer appeared before Council and Mayor Finley to voice her concerns on the following item:

- Resolution No. 2023-204-R, concern with so many bank signees on accounts
- Proposed Ordinance No. 2023-134, concern with the franchise agreement with Knology
- Public comment structure
- School board reimbursement

MARGI DALY (DISTRICT 6)

Ms. Daly appeared before Council and Mayor Finley to voice her concerns on the following items:

- Resolution No. 2023-198-R, New World software
- Resolution No. 2023-204-R, concerned with loopholes and legality of open-ended contracts
- Proposed Ordinance No. 2023-134, why is there a five-year contract with Knology
- Proposed Ordinance No. 2023-188, request that public comments be in the beginning so dept heads can hear the voice of the people
- Resolution No. 2023-209-R, money being spent on pickle call courts

CONSENT AGENDA AND FINANCE COMMITTEE REPORT

Council Member Shaw shared the Finance Committee reviewed all the periodic bills to be paid and found them all in order.

Council Member Shaw moved to approve the Consent Agenda and Finance Committee report as follows:

General Operating account	\$1,262,661.74
1/2 Cent Infrastructure	\$158,410.41
Gasoline Tax & Petroleum Inspection fees	\$19,895.95
TVA Tax	\$2,888.91
Street Repair and Maintenance	\$11,385.91
CIP Bond Accounts	\$2,520,052.00
Library Building Fund	\$73,998.16
Water Distribution and Storage	\$2,000.00
Fire CPR	\$353.80

Regular and periodic bills to be paid:

Resolution No. 2023-198-R: Authorizing a Request for Services Agreement with New World (a Tyler ERP Solution) for the creation of Positive Pay transmittal file for additional banking security in the amount of \$2,800 (to be paid from Finance Department budget)

Resolution No. 2023-203-R: Authorizing the acceptance of renewal Quote No. 26144097 from ESRI, Inc. for software maintenance services from August 1, 2023, through September 30, 2024, in the amount of \$4,493.43 (to be paid from Fire Department budget)

Resolution No. 2023-204-R: Designating Synovus Bank as depository for certain City bank accounts and further designating authorized signatures on said accounts

Resolution No. 2023-213-R: Acceptance of AMIC Settlement Claim No. 059436AK in the amount of \$2,1668.19 with a deductible of \$500.00 for damaged caused by collision.

Resolution No. 2023-217-R: Providing for the disposition of personal property of negligible value (1 L-shaped desk, 1 standalone desk, 2 office chairs, 1 file cabinet) via online auction through GovDeals website pursuant to Section 16-108 of the Code of Ordinances of the City of Madison

Approval of partial payment to Barge Design Solutions, Inc. in the amount of \$34,254.86 on Project No. 19-047 | Wall Triana and I-565 Improvements (Invoice No. 210536, PO No. 2022-1151, April 1, 2023 - May 26, 2023) (to be paid from 2015-A Bond account)

Approval of payment to Wiregrass Construction in the amount of \$15,289.51 on Project No. 20-028 | Middle School Infrastructure (Estimate No. 17 for work performed from April 1 - May 31, 2023 -- Bid No. 2021-008-ITB) (to be paid from 2020-A Bond account)

Approval to solicit bids for the construction of Project No. 22-019 (Downtown Warehouse ditch piping)

Acceptance of the following donation to be deposited into the Senior Center Donation account: T. Colopy in the amount of \$20.00

Council Member Powell seconded. The roll call vote to approve the Consent Agenda was taken and recorded as follows:

Council Member Greg Shaw	Aye
Council Member Teddy Powell	Aye
Council Member Ranae Bartlett	Aye
Council Member Maura Wroblewski	Aye
Council Member Connie Spears	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

PRESENTATION OF REPORTS

MAYOR PAUL FINLEY:

Mayor Finley reported on the following activities, events, and newsworthy items:

- Welcomed the new Director of Facilities Gerald Smith
- Armed Forces Week events
- Concert in the Park in Huntsville tonight
- Softball game Tuesday night at Toyota Field at 5:30
- Trash Pandas recognized the Gold Star Families at game Sunday night

- Reminded the community on July 3rd at Dublin Park is the day for fireworks and a big day for Recreation with celebration events
- Shout out to new businesses that have recently opened
- Thanked Ballcorps for their dedication despite recently cancelled games

COUNCIL DISTRICT NO. 1 MAURA WROBLEWSKI

Council Member Wroblewski reported on the following activities, events, and newsworthy items:

- Shared information on how to get event information for Armed Forces events this week
- Shared information on Gold Star Families
- Shared slides on the Community Center that is being built on Browns Ferry Road-scheduled to open 2024
- Active construction site reminder; closed to public
- Reminded that the library movies have started, the next one is June 29th, Superman II, followed by Indiana Jones etc., every Thursday night
- Shout out to the Honest Roasters and Sheila Bay for being involved with the concerts and investing in Madison
- Complimented the dessert and coffee that can be purchased at concert

COUNCIL DISTRICT NO. 2 CONNIE SPEARS

Council Member Spears reported on the following activities, events, and newsworthy items:

- Attended Trash Panda game along with Mayor Finley and The Industrial Development Board
- Met with potential investors for the City of Madison
- Amazed how many people stayed despite a cancelled Trash Panda game
- Encouraged everyone to take part in the Independence Day celebration on July 3rd at Dublin Park

COUNCIL DISTRICT NO. 3 TEDDY POWELL

Council Member Powell reported on the following activities, events, and newsworthy items:

- Shout out to Public Works and all they are doing to keep ditches clean
- Reminded everyone to avoid putting trash in gutters

COUNCIL DISTRICT NO. 4 GREG SHAW

No business to report

COUNCIL DISTRICT NO. 5 RANAE BARTLETT

RESOLUTION 2023-205-R: AUTHORIZING THE ARCHIVING AND LIVE STREAMING OF THE JUNE 21, 2023, VIDEO OF CITY COUNCIL WORK SESSION MEETING

Council Member Spears moved to approve Resolution No. 2023-205-R. Council Member Wroblewski seconded. The vote was taken and recorded as follows:

Council Member Connie Spears	Aye
Council Member Maura Wroblewski	Aye
Council Member Ranae Bartlett	Aye
Council Member Teddy Powell	Aye
Council Member Greg Shaw	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

Council Member Bartlett reported on the following activities, events, and newsworthy items:

- Madison Police Citizen Advisory Committee (MPCAC) meeting tomorrow night
- MPCAC accepting applications for District 5 vacancy
- Work session scheduled for Wednesday July 19th at 5:30 P.M
- Congratulated the Trash Pandas for their new store opening
- Summer concerts are fantastic and growing

COUNCIL DISTRICT NO. 6 KAREN DENZINE

Council Member Denzine reported on the following activities, events, and newsworthy items:

- Reminded the public that the MPCAC will meet tomorrow night. The topic of this month’s meeting will be “Summer Safety”
- Welcomed BeBe Oetjen back
- Dublin Park fireworks event
- Commended Parks & Recreation and staff for the hard work they do putting together the Independence Day celebration
- Provided an update regarding her family

COUNCIL DISTRICT NO. 7 JOHN SEIFERT

Absent

BOARD/COMMITTEE APPOINTMENTS

None

PUBLIC HEARINGS

Speakers and public hearing applicants who wanted to address agenda items listed under this section of the agenda were instructed to reserve their comments for the public hearing. Before or during the Council Meeting they were asked to sign up for the public hearing at which they wanted to address Council by texting the word

“COMMENT” to the City’s automated SMS system at 938-200-8560 or by filling out a card available in the vestibule or from the City Clerk. The project initiator, applicant, owner or agent of the business or property that is the subject of the hearing was allowed to speak for 15 minutes. Residents within the noticed area of the subject property, as well as all other members of the public, were allowed to speak for 5 minutes.

None

DEPARTMENTAL REPORTS

ENGINEERING

RESOLUTION NO. 2023-196-R: AUTHORIZING A PROFESSIONAL AGREEMENT WITH BARGE DESIGN SOLUTIONS IN AN AMOUNT NOT TO EXCEED \$17,500.00 FOR A FEMA NO-RISE CERTIFICATION ON PROJECT NO. 23-012 | BALCH AND BROWNS FERRY INTERSECTION IMPROVEMENT (TO BE PAID FROM ENGINEERING DEPARTMENT BUDGET)

Council Member Spears moved to approve Resolution No. 2023-196-R. Council Member Powell seconded. The vote was taken and recorded as follows:

Council Member Maura Wroblewski	Aye
Council Member Teddy Powell	Aye
Council Member Ranae Bartlett	Aye
Council Member Connie Spears	Aye
Council Member Greg Shaw	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

RESOLUTION NO. 2023-206-R: ACCEPTANCE OF ACADIA AT ARLINGTON PARK INTO THE CITY OF MADISON MAINTENANCE

Council Member Powell moved to approve Resolution No. 2023-206-R. Council Member Shaw seconded. Mayor Finley asked City Engineer Michael Johnson if he could remind everyone what the resolution acceptance entails. City Engineer Michael Johnson explained that the acceptance pertains to creating lots and allowing certificates of occupancy for the residents that are building houses. City Engineer Michael Johnson stated that the maintenance bond amount has been received and verified and the engineering inspector has gone through and made sure that the ads match the design. A verification from Huntsville Utilities has been received pertaining to the infrastructure, that was put in for their use, has been inspected. The vote was taken and recorded as follows:

Council Member Teddy Powell	Aye
Council Member Greg Shaw	Aye
Council Member Ranae Bartlett	Aye
Council Member Maura Wroblewski	Aye
Council Member Connie Spears	Aye
Council Member Karen Denzine	Aye

Council Member John Seifert Absent

Motion carried.

RESOLUTION NO. 2023-207-R: ACCEPTANCE OF BRADFORD STATION, PHASE 2, INTO THE CITY OF MADISON MAINTENANCE

Council Member Powell moved to approve Resolution No. 2023-207-R. Council Member Shaw seconded. The vote was taken and recorded as follows:

Council Member Teddy Powell	Aye
Council Member Greg Shaw	Aye
Council Member Ranae Bartlett	Aye
Council Member Maura Wroblewski	Aye
Council Member Connie Spears	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

RESOLUTION NO. 2023-208-R: ACCEPTANCE OF WINDERMERE SUBDIVISION, PHASE 2, INTO THE CITY OF MADISON MAINTENANCE PROGRAM

Council Member Powell moved to approve Resolution No. 2023-208-R. Council Member Shaw seconded. The vote was taken and recorded as follows:

Council Member Teddy Powell	Aye
Council Member Greg Shaw	Aye
Council Member Ranae Bartlett	Aye
Council Member Maura Wroblewski	Aye
Council Member Connie Spears	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

RESOLUTION NO. 2023-219-R: ACCEPTANCE OF GREENBRIAR HILLS PHASE 4 INTO THE CITY OF MADISON MAINTENANCE

Council Member Spears moved to approve Resolution No. 2023-219-R. Council Member Powell seconded. The vote was taken and recorded as follows:

Council Member Connie Spears	Aye
Council Member Teddy Powell	Aye
Council Member Ranae Bartlett	Aye
Council Member Maura Wroblewski	Aye
Council Member Greg Shaw	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

FIRE & RESCUE

RESOLUTION NO. 2023-216-R: AUTHORIZING CONTRACT WITH HUNTSVILLE DESIGN AND CONSTRUCTION, INC. TO MAKE REPAIRS TO THE FRONT STUCCO ABOVE THE BAY DOORS OF FIRE STATION 1 IN THE AMOUNT OF \$5,567.00 (TO BE PAID FROM FIRE & RESCUE DEPARTMENT BUDGET)

Council Member Powell moved to approve Resolution No. 2023-216-R. Council Member Spears seconded. Mayor Finley asked Fire Chief David Bailey why the repairs are needed. Fire Chief David Bailey explained the deterioration is hard to see from the ramp however upstairs you can see separation over the far two bays. Chief Bailey stressed that he was trying to get a head start on it before the damage gets worse and more expensive. The vote was taken and recorded as follows:

Council Member Teddy Powell	Aye
Council Member Connie Spears	Aye
Council Member Ranae Bartlett	Aye
Council Member Maura Wroblewski	Aye
Council Member Karen Denzine	Aye
Council Member Greg Shaw	Aye
Council Member John Seifert	Absent

Motion carried

LEGAL

PROPOSED ORDINANCE NO. 2023-134: AUTHORIZING A FRANCHISE AGREEMENT WITH KNOLOGY OF HUNTSVILLE, INC (DOING BUSINESS AS WOW!) FOR THE OPERATION AND MAINTENANCE OF A CABLE AND BROADBAND SYSTEM WITHIN THE CITY OF MADISON (FIRST READING)

City Attorney Brian Kilgore addressed a few of the comments pertaining to the proposed ordinance. City Attorney Brian Kilgore shared that the item had been on the agenda a few weeks back but was pulled because of the concerns of things being properly taxed in gross receipts in order to assess franchise fees. He stated that a question was raised about Huntsville’s guidelines, and it turns out there’s a statute called “The Internet Tax Freedom Act of 2016”. City Attorney Brian Kilgore explained that this act prohibits any city from being able to assess a fee on internet use. He shared that the traditional cable company is moving away from basic cable services and moving toward providing internet services. City Attorney Brian Kilgore advised that the more they provide internet services the less the business can be taxed. City Attorney Brian Kilgore stated that despite the additional research, his hands are tied, and that the growing component cannot be taxed. He shared that WOW is aware of the concerns about people working within our right of ways and an agreement to have bonds against any sort of damage and to identify third party subcontractors working in the right of ways has been agreed upon and extra provisions are in place. He also shared that WOW conceded that their contractors would have to identify themselves to property owners. City Attorney Brian Kilgore expressed that while there was a franchise agreement from month to month, this is a renegotiation for a five-year period so possible change in laws can be observed, which allows the opportunity to go back and address the taxes that come from internet. Council Member Spears asked City Attorney Brian Kilgore if the right to refuse subcontractor within the city

limits is included in the contract. City Attorney Brian Kilgore informed Council Member Spears that if the cable has already been laid, the city cannot discriminate provider against provider. Council Member Spears expressed that her concern is that Madison Utilities repeatedly had damage from the same contractor. City Attorney Brian Kilgore stated that engineering is in the process of revamping their right of way permit which will help identify factors in order to work in the right of way, as well as the ability to pull license from people. He also shared that it is unassignable and if for any reason if the company sells, the agreement seizes.

This is a first reading only

PROPOSED ORDINANCE NO. 2023-188: AMENDING CITY CODE SECTION 2-42(4) ORDER OF AGENDA ITEMS (FIRST READING 05/22/2023)

Council Member Powell moved to approve Ordinance No. 2023-188: Council Member Spears seconded. Mayor Finley asked if this ordinance was keeping things as is. Council Member Bartlett reassured Mayor Finley that things were staying the same as well as accepting suggestions that were made to add things that were not in the original ordinance. Council Member Denzine shared that she does not support this ordinance. She believes the voice of the citizens should be the first order of business not the last. Council Member Denzine applauded the citizens that participate and are engaged at the council meetings, and she expressed that their voices should be heard first not last. She shared that the citizens have a stronger voice being heard first. Council Member Denzine shared her gratitude that this in fact gives people more of an option to talk such as an agenda related comment or an individual's choice of discussion. She shared that all comments should take place at the beginning of council meeting where everyone can have their say early. The vote was taken and recorded as follows:

Council Member Teddy Powell	Aye
Council Member Connie Spears	Aye
Council Member Ranae Bartlett	Aye
Council Member Maura Wroblewski	Aye
Council Member Greg Shaw	Abstain
Council Member Karen Denzine	Nay
Council Member John Seifert	Absent

Motion carried.

PLANNING

PROPOSED ORDINANCE NO. 2023-190: VACATION OF A PORTION OF A UTILITY AND DRAINAGE EASEMENT LOCATED AT 103 WILLOW WITHIN WILLOW CREEK SUBDIVISION (FIRST READING 06/12/2023)

Council Member Wroblewski moved to approve Proposed Ordinance No. 2023-190: Council Member Powell seconded. The vote was taken and recorded as follows:

Council Member Maura Wroblewski	Aye
Council Member Teddy Powell	Aye
Council Member Ranae Bartlett	Aye
Council Member Connie Spears	Aye
Council Member Greg Shaw	Aye

Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

POLICE

RESOLUTION NO. 2023-201-R: AUTHORIZING AN AGREEMENT WITH MADISON BOARD OF EDUCATION FOR ADDITIONAL SRO FOR 2023-2024 SCHOOL YEAR

Council Member Powell moved to approve Resolution No. 2023-201-R. Council Member Spears seconded. Council Member Bartlett asked Police Chief Johnny Gandy if there is anything different about this agreement versus the other agreements in terms of how the fees are split and the Student Resource Officers (SRO) are paid. Police Chief Johnny Gandy replied that he didn't think so. Council Member Bartlett asked and reaffirmed that a new one is being added due to a new school coming. City Attorney Brian Kilgore shared that the only term being addressed is the forty dollars per hour for overtime. He shared that a dollar value has been added. Council Member Bartlett confirmed the only thing changing is the specification of a dollar value for overtime rate. City Attorney Brian Kilgore replied yes. The vote was taken and recorded as follows:

Council Member Teddy Powell	Aye
Council Member Connie Spears	Aye
Council Member Ranae Bartlett	Aye
Council Member Maura Wroblewski	Aye
Council Member Greg Shaw	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

RESOLUTION NO. 2023-202-R: AUTHORIZING AN AGREEMENT WITH MADISON BOARD OF EDUCATION FOR CROSSING GUARDS FOR 2023-2024 SCHOOL YEAR

Council Member Powell moved to approve Resolution No. 2023-202-R. Council Member Shaw seconded. The vote was taken and recorded as follows:

Council Member Teddy Powell	Aye
Council Member Greg Shaw	Aye
Council Member Ranae Bartlett	Aye
Council Member Maura Wroblewski	Aye
Council Member Connie Spears	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

RESOLUTION NO.2023-218-R: AUTHORIZING THE SUBMISSION OF DEPARTMENT OF JUSTICE BULLET-PROOF VEST GRANT APPLICATION (\$11,125 TO BE PAID FROM GRANT FUNDING AND \$11,125 IN MATCHING FUNDS TO BE PAID FROM POLICE DEPARTMENT BUDGET)

Council Member Spears moved to approve Resolution No. 2023-218-R. Council Member Shaw seconded. The vote was taken and recorded as follows:

Council Member Connie Spears	Aye
Council Member Greg Shaw	Aye
Council Member Ranae Bartlett	Aye
Council Member Maura Wroblewski	Aye
Council Member Teddy Powell	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

RECREATION

RESOLUTION NO. 2023-209-R: AUTHORIZING A CONTRACT WITH BASELINE SPORTS CONSTRUCTION, LLC FOR CONSTRUCTION OF OPEN-AIR PICKBALL COURTS IN THE AMOUNT OF \$514,535.00 (TO BE PAID FROM FUND 38)

Council Member Wroblewski moved to approve Resolution No. 2023-209-R. Council Member Shaw seconded. Council Member Denzine asked for clarification on the renovations and funds for the pickleball courts. Director of Parks and Recreation Kory Alfred specified that the amount is referenced to paying the construction company to do the work. Council Member Denzine shared after going through the contract it didn't list how many pickleball courts the cost included. Director of Parks and Recreation Kory Alfred shared that the total price included new fencing, painting the lines, painting the courts, and adding sidewalks for access purposes. He shared that the tennis courts that are in despair are being converted into new pickleball courts. Council Member Denzine asked how many pickleball courts are at Dublin Park. Director of Parks and Recreation Kory Alfred shared there are four designated pickleball courts and because of the demand all the tennis courts have been lined as well. He expressed that the tennis players and pickleball players do not like playing on the same court. He is sure this will help alleviate this problem. Council Member Denzine asked if this will help the demand for the people wanting to play pickleball. Council Member Denzine also asked if there were any companies out there that currently promote pickleball. Director of Parks and Recreation Kory Alfred reassured Council Member Denzine if there are they aren't bidding on the current project. He stated that he recently contacted the City of Guntersville and all their vendors for their pickleball courts had not bid on the city of Madison pickleball court project. He shared that he found two companies that were interested, one being \$45,000 more dollars than the other. Council Member Denzine reiterated her question if there was a current enterprise instead of the city paying for it, the project could be done as a private business contract. Director of Parks and Recreation Kory Alfred reassured Council Member Denzine that he isn't aware of any. He mentioned there is something coming to Mid-City that's pickleball related but it's more of a bar & grill type thing. The vote was taken and recorded as follows:

Council Member Maura Wroblewski	Aye
Council Member Greg Shaw	Aye
Council Member Ranae Bartlett	Aye
Council Member Connie Spears	Aye
Council Member Teddy Powell	Aye
Council Member Karen Denzine	Aye

Council Member John Seifert

Absent

Motion carried.

RESOLUTION NO. 2023-212-R: AUTHORIZING A CONTRACT WITH INZONE, LLC, DOING BUSINESS AS HALL OF FAME COURSE DESIGN AND INSTALLATION OF AN 18-HOLE DISC GOLF COURSE AT SUNSHINE OAKS PARK IN THE AMOUNT OF \$56,920 (TO BE PAID FROM FUND 38))

Council Member Wroblewski moved to approve Resolution No. 2023-212-R. Council Member Powell seconded. The vote was taken and recorded as follows:

Council Member Maura Wroblewski	Aye
Council Member Teddy Powell	Aye
Council Member Ranae Bartlett	Aye
Council Member Connie Spears	Aye
Council Member Greg Shaw	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

Mayor Finley asked if Director of Parks & Recreation Kory Alfred could give additional information on the Independence Day celebration at Dublin Park. Director of Parks and Recreation Kory Alfred shared that it's on July 3rd at Dublin Park from 5pm to 9pm. Music, inflatables, food trucks and fireworks at 9pm. Also, the band Groove will be playing, which is the same band that has played at the summer concerts. Lastly, he shared that bus service will be available from Bob Jones starting an hour before the events at 4:30.

PUBLIC COMMENTS

BERNADETTE MAYER (DISTRICT 5) HEATHERWOOD SUBDIVISION

Ms. Mayer appeared before Council and Mayor Finley to voice her concerns on the following items:

- Objection to wayfinding signs
- Directing more city money to infrastructure
- Objection to further investment into Toyota Stadium

BEBE OETJEN

Ms. Oetjen appeared before Council and Mayor Finley to voice her concerns on the following items:

- Fence needed around cemetery
- Zoning concerns
- Trees in subdivisions

MARGI DALY

Ms. Daly appeared before Council and Mayor Finley to voice her concerns on the following items:

- Citizen’s safety concerns
- Streetlights unsafe
- Fix sidewalks and streets

MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

None

ADJOURNMENT

Having no further business to discuss Council Member Wroblewski moved to adjourn.
The roll call vote was taken and recorded as follows:

Council Member Maura Wroblewski	Aye
Council Member Connie Spears	Aye
Council Member Teddy Powell	Aye
Council Member Greg Shaw	Aye
Council Member Ranae Bartlett	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent

Motion carried.

The meeting was adjourned at 6:58 p.m.

Minutes No. 2023-12-RG, dated June 26th, 2023, read, approved, and adopted this 10th day of July 2023.

Council Member Maura Wroblewski
District One

Council Member Connie Spears
District Two

Council Member Teddy Powell
District Three

Council Member Greg Shaw
District Four

Council Member Ranae Bartlett
District Five

Council Member Karen Denzine
District Six

Council Member John Seifert
District Seven

Concur:

Paul Finley, Mayor

Attest:

Lisa D. Thomas
City Clerk-Treasurer

Kerri Sulyma
Recording Secretary

RESOLUTION NO. 2023-225-R

WHEREAS, the City of Madison owns personal property (formerly used by the Madison Police Department) for which the City has no continuing need, such property consisting of the follows:

QUANTITY	DESCRIPTION	MILEAGE
1	2008 Nissan Xterra VIN# 5N1AN08U08C522517	188294
2	2012 Jeep Liberty VIN# 1C4PJLAK3CW188740	160074

WHEREAS, it is the desire of the City Council of the City of Madison to declare said personal property to be surplus property and to direct the sale of said property.

NOW, THEREFORE, BE IT RESOLVED that the City Clerk be and hereby is directed to advertise a date for a sale at which said property may be offered for public sale through GOVDEALS. (free or as determined by the City Clerk) The property is to be sold as is, with no warranties of any kind whatsoever. To the extent necessary, the Clerk is further directed and empowered to execute appropriate endorsement of any certificates of title on such property upon receipt of payment of the purchase amount from the purchaser of said property. To the extent necessary, the Clerk is further directed and empowered to execute any other documents as necessary to affect this transfer of ownership of said property.

READ, APPROVED, and ADOPTED this 10th day of July 2023.

Ranae Bartlett, City Council President
City of Madison, Alabama

ATTEST:

Lisa D. Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this 10th day of July, 2023.

Paul Finley, Mayor
City of Madison, Alabama



City of Madison, Alabama

Capital Assets Disposal Form

Section 1

Capital Assets Tag No. _____
(Existing Assets Number)

Section 2

Date: 07/03/2023 Department: Police
 Item Description: 2012 Jeep Liberty Milage 160074
 Serial/Model #: VIN# 1C4PJLAK3CW188740 New: Used:
 Location: Police Department Vendor Name: _____
 Asset Class: _____ Activity Code: _____ Fund: _____ Acct. No.: _____
 Date Item Acquired: _____ Cost or Donated Value: _____
 Enhancements: VEHICLE TO BE SOLD ON GM DEALS

The original form must be submitted to the City Clerk-Treasurer's Department for the disposition of assets. Items requested for disposition will be submitted to the City Council for approval. The City Clerk-Treasurer will notify the department head of the disposition method and submit a copy of approved disposition to the Finance Department.

Signature: *John J. Kauf* (Department Head or Designee)

Date: 7-3-23

***** TO BE COMPLETED BY CITY CLERK *****

(Below this line)

Section 3

DISPOSITION METHOD: Surplus Sale: _____ Other: _____
 APPROVAL OF DISPOSITION METHOD:
 Approved by Resolution #: _____ Date: _____
 Minutes #: _____

SOLD TO: Proceeds: _____
 Address: _____

 _____ Date: _____

Signature, City Clerk-Treasurer _____

Date _____

COMMENTS: _____

COPY: Requesting Dept.

Finance Dept.

Revised 6/25/2007



City of Madison, Alabama

Capital Assets Disposal Form

Section 1

Capital Assets Tag No. _____
(Existing Assets Number)

Section 2

Date: 07/03/2023

Department: Police

Item Description: 2008 Nissan Xterra Mileage 188294

Serial/Model #: Vin # 5N1AN08U08C52217 New: Used:

Location: Police Department Vendor Name: _____

Asset Class: _____ Activity Code: _____ Fund: _____ Acct. No.: _____

Date Item Acquired: _____ Cost or Donated Value: _____

Enhancements: VEHICLE TO BE SOLD ON GOV DEALS

The original form must be submitted to the City Clerk-Treasurer's Department for the disposition of assets. Items requested for disposition will be submitted to the City Council for approval. The City Clerk-Treasurer will notify the department head of the disposition method and submit a copy of approved disposition to the Finance Department.

Signature: (Department Head or Designee)

Date: 7-3-23

***** TO BE COMPLETED BY CITY CLERK *****

(Below this line)

Section 3

DISPOSITION METHOD: Surplus Sale: _____ Other: _____

APPROVAL OF DISPOSITION METHOD:

Approved by Resolution #: _____ Date: _____

Minutes #: _____

SOLD TO: Proceeds: _____

Address: _____

Date: _____

Signature, City Clerk-Treasurer

Date

COMMENTS: _____

COPY: Requesting Dept.

Finance Dept.

Revised 6/25/2007

RESOLUTION NO. 2023-226-R

WHEREAS, the City of Madison have in their possession, among others, the remains of the following personal property which has been used or consumed in the normal course of the operation of the City:

Quantity	Description
1	Scan Snap Color Imaging Scanner Serial #029561 Model # S500
1	Dell Laptop Model # PP04X

; and

WHEREAS, the Police Department has no further use for said personal property and that said personal property be declared surplus as it has no useful life or fixed asset value to the City; and

WHEREAS, Article V, Section 16-108, of the Madison City Code, provides for disposition of personal property of negligible value pursuant to resolution of the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Madison, Alabama, that the Police Department is hereby authorized to dispose of the surplus personal property, as listed above.

READ, APPROVED, and ADOPTED this 10th day of July 2023.

Ranae Bartlett, City Council President
City of Madison, Alabama

ATTEST:

Lisa D. Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this 10th day of July, 2023.

Paul Finley, Mayor
City of Madison, Alabama



City of Madison, Alabama

Capital Assets Disposal Form

Section 1

Capital Assets Tag No. 05000
(Existing Assets Number)

Section 2

Date: 06/26/2023

Department: Police

Item Description: Scan Snap Color Imaging Scanner

Serial/Model #: Serial # 029561/Model # S500

New: Used:

Location: Special Ops

Vendor Name: _____

Asset Class: _____ Activity Code: _____ Fund: _____ Acct. No.: _____

Date Item Acquired: _____ Cost or Donated Value: _____

Enhancements: _____

The original form must be submitted to the City Clerk-Treasurer's Department for the disposition of assets. Items requested for disposition will be submitted to the City Council for approval. The City Clerk-Treasurer will notify the department head of the disposition method and submit a copy of approved disposition to the Finance Department.

Signature: *John J. Harb* (Department Head or Designee)

Date: _____

***** TO BE COMPLETED BY CITY CLERK *****

(Below this line)

Section 3

DISPOSITION METHOD: Surplus Sale: _____ Other: _____

APPROVAL OF DISPOSITION METHOD:

Approved by Resolution #: _____ Date: _____

Minutes #: _____

SOLD TO:

Address: _____

Proceeds: _____

Date: _____

Signature, City Clerk-Treasurer _____

Date _____

COMMENTS: _____

COPY: Requesting Dept.

Finance Dept.

Revised 6/25/2007



City of Madison, Alabama

Capital Assets

Disposal Form

Section 1

Capital Assets Tag No. 05544
(Existing Assets Number)

Section 2

Date: 06/26/2023 Department: Police

Item Description: Dell Laptop

Serial/Model #: Model # PP04X New: Used:

Location: Traffic Unit Vendor Name: _____

Asset Class: _____ Activity Code: _____ Fund: _____ Acct. No.: _____

Date Item Acquired: _____ Cost or Donated Value: _____

Enhancements: _____

The original form must be submitted to the City Clerk-Treasurer's Department for the disposition of assets. Items requested for disposition will be submitted to the City Council for approval. The City Clerk-Treasurer will notify the department head of the disposition method and submit a copy of approved disposition to the Finance Department.

[Signature]
Signature: (Department Head or Designee)

Date: _____

***** TO BE COMPLETED BY CITY CLERK *****

(Below this line)

Section 3

DISPOSITION METHOD: Surplus Sale: _____ Other: _____

APPROVAL OF DISPOSITION METHOD:

Approved by Resolution #: _____ Date: _____

Minutes #: _____

SOLD TO: _____ Proceeds: _____

Address: _____

Date: _____

Signature, City Clerk-Treasurer

Date

COMMENTS: _____

COPY: Requesting Dept.

Finance Dept.



MIDSOUTH PAVING, INC.
CONSTRUCTION DIVISION
107 JETPLEX LANE
MADISON, AL 35758
PHONE: (256) 774-8084
FAX: (256) 774-8089

REMIT TO:
MIDSOUTH PAVING, INC.
POST OFFICE BOX 198495
ATLANTA, GA 30384-8495

VENDOR #: 209656

CUSTOMER: City of Madison
100 Hughes Road
Madison, AL 35758

BILLING#: 1 Revised I

DATE: 06/21/23

ATTN:

PROJECT: Asphalt Paving
Will Halsey

JOB NUMBER: 403235

INVOICE NUMBER: 403235-001RevI-Will Halsey

FROM: 5/1/23 TO: 5/19/23

SEE ATTACHED

Table with 2 columns: Description, Amount. Rows include TOTAL (\$ 103,838.14), LESS RETAINAGE (\$ -), LESS PREVIOUS BILLINGS (\$ -), and TOTAL AMOUNT DUE (\$ 103,838.14).

PREPARED BY: Claudia James
Claudia.James@midsouthpaving.com

APPROVED BY: [Signature]

[Signature: E. Michelle Dunsen]
6/22/23

CONTRACTOR PAY ESTIMATE FORM
MIDSOUTHPAVING, INC.
107 JETPLEX LANE
MADISON, AL 35758
PHONE 256-774-8084
FAX 256-774-8089

TO: City of Madison
100 Hughes Road
Madison, AL 35758

BILLING #: 1 Revised I
JOB NAME: Asphalt Paving
Will Halsey

DATE: 6/21/23
JOB #: 403235
FROM: 5/1/23

TO: 5/19/23

ITEM NO.	ITEM DESCRIPTION	ORIG. QTY AND UNIT	UNIT PRICE	CURRENT MONTH		TO DATE	
				QTY	AMOUNT	QTY	AMOUNT
1	Wearing Surface 1/2" (Roads over 500 Tons)	20,000 TN	\$85.20	0.00	\$0.00		\$0.00
2	Wearing Surface 1/2" (Roads under 500 Tons)	10,000 TN	\$101.54	0.00	\$0.00		\$0.00
3	Wearing Surface 1/2" (Siliceous Agg)	1,000 TN	\$96.81	865.45	\$83,784.21	865.45	\$83,784.21
4	Wearing Surface 1/2" (Parking Lots)	2,000 TN	\$103.26	0.00	\$0.00		\$0.00
5	Wearing Surface 1/2" (F.O.B. Plant)	3,000 TN	\$67.29	0.00	\$0.00		\$0.00
6	Upper Binder 1" (Roadways & Leveling)	3,000 TN	\$85.56	0.00	\$0.00		\$0.00
7	Upper Binder 1" (Parking Lots)	1,200 TN	\$82.43	0.00	\$0.00		\$0.00
8	Upper Binder 3/4" (Roadways & Leveling)	1,500 TN	\$91.58	79.96	\$7,322.74	79.96	\$7,322.74
9	Upper Binder 3/4" (F.O.B. Plant)	500 TN	\$58.13	0.00	\$0.00		\$0.00
10	Bituminous Base Layer Widening 1" (Roadway Widening)	1,000 TN	\$85.20	0.00	\$0.00		\$0.00
11	Bituminous Base Layer Patching 1' (Roadway Patching)	1,000 TN	\$108.77	0.00	\$0.00		\$0.00
12	Agg. Surfacing 1/4" Down (Shoulder Stone)	2,000 TN	\$51.20	128.96	\$6,602.75	128.96	\$6,602.75
13	Planing Existing Pavement (0"-2")-Road Milling	135,000 SY	\$0.78	833.00	\$649.74	833.00	\$649.74
14	Planing Existing Pavement (2"-4")-Speed Bump Milling	40,000 SY	\$0.89	0.00	\$0.00		\$0.00
15	Planing Existing Pavement (0"-2") Keyways	5,000 SY	\$1.55	312.00	\$483.60	312.00	\$483.60
	Liquid AC-May 2023						
3	TACK - WS	1 LS	\$375.00	1.00	\$375.00	1.00	\$375.00
3	Wearing Surface 1/2" (Siliceous Agg)	1 LS	\$4,301.91	1.00	\$4,301.91	1.00	\$4,301.91

CONTRACTOR PAY ESTIMATE FORM
MIDSOUTHPAVING, INC.
 107 JETPLEX LANE
 MADISON, AL 35758
 PHONE 256-774-8084
 FAX 256-774-8089

TO: City of Madison
 100 Hughes Road
 Madison, AL 35758

BILLING #: 1 Revised I
 JOB NAME: Asphalt Paving
 Will Halsey

DATE: 6/21/23
 JOB #: 403235
 FROM: 5/1/23 TO: 5/19/23

ITEM NO.	ITEM DESCRIPTION	ORIG. QTY AND UNIT	UNIT PRICE	CURRENT MONTH		TO DATE	
				QTY	AMOUNT	QTY	AMOUNT
8	Upper Binder 3/4" (Roadways & Leveling)	1 LS	\$318.19	1.00	\$318.19	1.00	\$318.19
				0.00%	\$0.00		\$0.00
TOTAL					\$103,838.14		\$103,838.14

Less: NO RETAINAGE	\$0.00	\$ -
% BOND	\$0.00	\$0.00
% CONTRACTORS TAX	\$0.00	\$0.00
OTHER:	\$0.00	\$0.00

LESS PREVIOUS BILLINGS

TOTAL AMOUNT DUE THIS BILLING **\$103,838.14**

=====

BITUMINOUS MATERIAL PRICE ADJUSTMENT WORKSHEET

CONTRACTOR: MIDSOUTH PAVING, INC. 403235

COM EST# _____ 1Rev1
Will Halsey

PROJECT NO: City of Madison - Asphalt Paving
 BID DATE: 12/15/21

COUNTY: Madison
 CURRENT MONTH/YEAR: 05/23

	w/o Poly	w/Polymer		w/o Poly	w/Polymer
Base Asphalt Cement Inde	2.34	3.02	Base Emulsified Asphalt Index:	2.64	2.98
Current A.C. Index:	2.81	3.47	Current E. A. Index:	3.14	3.47
Change in AC Index (+/-):	+0.47	+0.45	Change in E.A. Index (+/-):	+0.50	+0.49

(1) Item No.	(2) Description	(3) Tons	(4) Lbs/To n Design Mix	(5) Gallons	(6) Change Index (+/-\$/G)	(7) Asphalt Adjustment (+/-)\$
3	TACK - WS			750.00	+0.50	\$ 375.00
					+0.50	\$ -
						\$ -
1	Wrg Srf 1/2" (Roads over 500 Tons)		90	0.00	+0.47	\$ -
2	Wrg Srf 1/2" (Roads under 500 Tons)		90	0.00	+0.47	\$ -
3	Wrg Srf 1/2" (Siliceous Aggregates)	865.45	90	9,153.00	+0.47	\$ 4,301.91
4	Wrg Srf 1/2" (Parking Lots)		90	0.00	+0.47	\$ -
6	Upper Binder 1" (Roadways & Leveling)		53	0.00	+0.47	\$ -
7	Upper Binder 1" (Parking Lots)		53	0.00	+0.47	\$ -
8	Upper Binder 3/4" (Roadways & Leveling)	79.96	72	677.00	+0.47	\$ 318.19
10	Bituminous Base Layer Widening 1" (Roadway Widening)		53		+0.47	
11	Bituminous Base Layer Patching 1" (Roadway Patching)		53	0.00	+0.47	
TOTAL:						\$ 4,995.10

Notes:

- Items No. 3 and 4 will be completed for Plant Mix only.
- Item No. 4 will be taken from job mix. 2000 lb x % of PG 67-22 on job mix / 100 = lb per TN
- For Plant Mix, Item No. 5= (Item No. 3)(Item No. 4)

8.51



Alabama Department of Transportation

1409 Coliseum Boulevard, Montgomery, AL 36110

Asphalt Index for 2023



6/21/2023

<u>Unit of Measurement</u>	<u>PG Asphalt</u>	<u>PG Asphalt with Polymer</u>	<u>Emulsified Asphalt</u>	<u>Emulsified Asphalt with Polymer</u>
January				
\$ per Gallon	2.83	3.51	3.16	3.49
\$ per Liter	0.747	0.927	0.835	0.922
February				
\$ per Gallon	2.81	3.47	3.12	3.45
\$ per Liter	0.742	0.917	0.824	0.911
March				
\$ per Gallon	2.83	3.47	3.12	3.45
\$ per Liter	0.747	0.917	0.824	0.911
April				
\$ per Gallon	2.81	3.47	3.14	3.47
\$ per Liter	0.742	0.916	0.830	0.917
May				
\$ per Gallon	2.81	3.47	3.14	3.47
\$ per Liter	0.742	0.917	0.830	0.917
June				
\$ per Gallon	2.77	3.45	3.14	3.47
\$ per Liter	0.731	0.911	0.830	0.917
July				
\$ per Gallon	0.00	0.00	0.00	0.00
\$ per Liter	0.000	0.000	0.000	0.000
August				
\$ per Gallon	0.00	0.00	0.00	0.00
\$ per Liter	0.000	0.000	0.000	0.000
September				
\$ per Gallon	0.00	0.00	0.00	0.00
\$ per Liter	0.000	0.000	0.000	0.000
October				
\$ per Gallon	0.00	0.00	0.00	0.00
\$ per Liter	0.000	0.000	0.000	0.000
November				
\$ per Gallon	0.00	0.00	0.00	0.00
\$ per Liter	0.000	0.000	0.000	0.000
December				
\$ per Gallon	0.00	0.00	0.00	0.00
\$ per Liter	0.000	0.000	0.000	0.000

RESOLUTION NO. 2023-223-R

**A RESOLUTION AUTHORIZING A MANUFACTURER LIQUOR LICENSE FOR
GUAJANA DISTILLERY LLC (D/B/A GUAJANA DISTILLERY)**

WHEREAS, the Alabama Alcoholic Beverage Control Board (“ABC”) has requested the consent of the governing body of the City of Madison, Alabama, prior to issuing a manufacturer liquor license to **GUAJANA DISTILLERY LLC** doing business as **GUAJANA DISTILLERY** which has applied for said license for its location at 9582 Madison Boulevard, Suites 1, 2 and 3; and

WHEREAS, the Revenue Director has received written approval for the application of **GUAJANA DISTILLERY LLC** from the Madison Police Department, the Building Department, and Fire Department which is required by Chapter 4 of the *Code of Ordinances, City of Madison, Alabama*.

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that the City Council hereby consents to the issuance of an ABC manufacturer liquor license to **GUAJANA DISTILLERY LLC** for its location at 9582 Madison Boulevard, Suites 1, 2 and 3 and that the Revenue Director is authorized to forward proof of the same to the ABC; and

BE IT FURTHER RESOLVED that upon the ABC’s grant of the license, the Revenue Director is authorized to issue a City manufacturer liquor license to **GUAJANA DISTILLERY LLC** doing business as **GUAJANA DISTILLERY**.

READ, PASSED, AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 10th day of July 2023.

Ranae Bartlett, City Council President
City of Madison, Alabama

ATTEST:

Lisa D. Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this ____ day of July 2023.

Paul Finley, Mayor
City of Madison, Alabama



CITY OF MADISON REVENUE DEPARTMENT
100 HUGHES ROAD, MADISON, AL 35758
REVENUE@MADISONAL.GOV / 256-772-5654
WWW.MADISONAL.GOV

Date: June 27, 2023

To: Mayor & City Council

From: Ivon Williams
Deputy Revenue Officer, Revenue Department

Subject: Guajana Distillery LLC
DBA: Guajana Distillery
Manufacturer Liquor License

Please find attached a copy of the checklist for Guajana Distillery LLC., doing business as Guajana Distillery, in regard to their application for a Manufacturer Liquor license for their location at 9582 Madison Boulevard Suite 1,2, and 3, Madison, AL.

The reason that this business is applying for a Manufacturer Liquor license at this time is that is a new business in the City of Madison.

Everything is in order for the City Council to consider this alcoholic beverage request.

If there are any questions, do not hesitate to call me at (256) 772-5628.

City of Madison, Alabama

Checklist for Beer/Wine/Liquor License

ON PREMISE OFF PREMISE
 BEER WINE LIQUOR

Owner Name: LUIS ORTIZ

Business Name: GUAJANA DISTILLERY LLC

Business Location: 9582 MADISON BOULEVARD SUITE 1, 2, 3.

Mailing Address: 9582 MADISON BOULEVARD SUITE 3

Phone: 939 325 4762

APPLICATION FEE:

Date Paid: JUNE 09/23 Amount: 100 Receipt #: _____

Copy of Lease: YES Incorporation Papers: YES

POLICE DEPARTMENT APPROVAL:

Letter Sent: _____

Background Check: Approved Disapproved _____

Check Completed By: [Signature] Title Capt

Date Completed: 6/13/2023

BUILDING DEPARTMENT APPROVAL:

Letter Sent: _____

Inspection: Approved Disapproved _____

Inspection Completed By: [Signature] Title INSPECTOR

Date Completed: 6-12-2023

FIRE DEPARTMENT APPROVAL:

Letter Sent: _____

Inspection: Approved Disapproved _____

Inspection Completed By: [Signature] Title FM

Date Completed: 6-16-23

ADVERTISEMENT/DATE SET FOR PUBLIC HEARING:

Memo Sent to City Clerk On: JUNE 12, 2023

Date Placed: JUNE 14, 2023 Newspaper: JUNE 21, 2023

Publication Fee Paid: 184.00

Date Paid: JUNE 09, 2023 Receipt #: _____

Date of Public Hearing: JULY 10, 2032

Approved: _____

Denied: _____

STATE ALCOHOL CONTROL BOARD LETTER:

Letter Sent: _____

Mailed to Applicant: _____

CITY LICENSE:

Issuance Date: _____

By: _____

License #: _____



RESOLUTION NO. 2023-227-R

**A RESOLUTION AUTHORIZING CHANGE ORDER NO. 2
TO AGREEMENT WITH AECOM TECHNICAL SERVICES INC.**

WHEREAS the City Council authorized an agreement with AECOM Technical Services, Inc. (herein "AECOM") on April 25, 2022, by Resolution 2022-128-R, for the design and management of a competitive bid for the I-565 Exchange Phase II Project (herein "the Project"); and

WHEREAS, on December 12, 2022, the City Council approved Resolution No. 2022-330-R approving Change Order No. 1 for AECOM's expanded responsibilities as manager of the Project in the amount of two million, four hundred forty thousand, four hundred sixty-eight dollars (\$2,440,468); and

WHEREAS, AECOM has submitted Change Order No. 2 to the City for increased mobilization costs for the Project in the amount of two hundred fifty-nine thousand seven hundred fifty-one dollars and eighty cents (\$259,751.80).

NOW BE IT HERBY RESOLVED by the City Council of the City of Madison, Alabama, that the City Council finds that the justifications set forth establish that proposed Change Order No. 2 is appropriate; and

BE IT FURTHER RESOLVED that, except for the extension or cancellation of the relationship established by such acceptance and execution, the Mayor or his designee shall be hereby authorized to execute any and all documentation necessary to enforce and comply with the terms of Change Order No. 2; and

BE IT FURTHER RESOLVED that the original contract between the City and Contractor is hereby amended to authorize the work described in the proposed Change Order No. 2, and that all other actions taken prior to the date of this resolution are ratified, and the provisions of the original contract remain unchanged.

READ, PASSED, AND ADOPTED this 10th day of July 2023.

Ranae Bartlett, Council President
City of Madison, Alabama

ATTEST:

Lisa D. Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this ____ day of July 2023.

Paul Finley, Mayor
City of Madison, Alabama

CONTRACT CHANGE ORDER	Date	3/8/2023
	Project No.	2022-009-ITB
	Project Name:	City of Madison Interchange
	Change Order No	2

You are hereby requested to comply with the following changes from the contract plans and specifications:

Item No.	Description of changes - quantities, units, unit prices, change in completion schedule, etc.	Decrease in Contract Price	Increase in Contract Price
1	2	3	4
1	Contract time to be extended 54 Calendar Days New Contract time to be 724 Calendar Days	0	\$0.00
2	Mobilization to be increased by \$259,751.80 New mobilization Unit Price to be \$3,708,341.77 Note: Access to the project has been revised to Interstate only.		\$259,751.80

Change in Contract price due to this Change Order:

3	Total Decrease	\$0.00	
4	Total Increase		\$259,751.80
5	Difference between Columns (3) and (4)		\$259,751.80
6	Net increase in contract price		\$259,751.80

Original Contract Price = \$36,780,000.00
 Change order #1 \$260,000.00

The sum of \$ 259,751.80 is hereby(added to) the total contract price, and the adjusted contract price to date thereby is \$ 37,299,751.80.

This document shall become an amendment to the contract and all provisions of the contract will apply hereto.

Recommended by		<u>3/15/23</u>
	AECOM Technical Services, Inc	Date
Accepted by		<u>3/9/23</u>
	Contractor:	Date
Approved by	_____ Mayor of the City of Madison:	_____ Date

ORDINANCE NO. 2023-128**AN ORDINANCE AUTHORIZING A FRANCHISE AGREEMENT WITH
CROWN CASTLE FIBER LLC**

WHEREAS, Crown Castle Fiber LLC has requested a franchise from the City for the installation and operation of fiber-optic cable, small low powered antennas and related equipment in the City's right of way and on the City's existing poles for telecommunication services; and

WHEREAS, the City Council of the City of Madison has determined that the proposed franchise, for a ten-year term, will promote the health, safety, and welfare of the public and otherwise serve the public interest; and

WHEREAS, by this Ordinance, the City desires to extend its grant of a non-exclusive franchise to Crown Castle Fiber LLC and to authorize the execution of the attached "Public Right-Of-Way Use Agreement (Fiber Network)" between the City of Madison and Crown Castle Fiber LLC.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Madison as follows:

Section 1. The City, in consideration of the acceptance of the mutual covenants and agreements and of all the terms and conditions of this Ordinance hereby grants to Crown Castle Fiber LLC, the right, privilege, authority, and non-exclusive agreement for the installation and operation of fiber-optic cable, manholes, handholes and related equipment, as defined in the "Public Right-Of-Way Use Agreement (Fiber Network)," and to use the streets, avenues, existing poles and public ways, and places in the City for such purposes in accordance with the terms, conditions, and provisions of this Ordinance.

Section 2. That the Mayor is hereby authorized and directed to execute the "Public Right-Of-Way Use Agreement (Fiber Network)" attached hereto as **Exhibit A** and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same.

Section 3. If any word, clause, phrase, sentence, paragraph, or provision of this Ordinance or the "Public Right-Of-Way Use Agreement (Fiber Network)" shall be invalidated by a court of competent jurisdiction, such invalidity shall not affect any other word, clause, phrase, sentence, paragraph, or provision hereof.

Section 4. That the "Public Right-Of-Way Use Agreement (Fiber Network)" shall be in full force and effect after the date of its final passage, adoption, and proper execution. A synopsis of this Ordinance or synopsis thereof shall be published, at the expense of the

franchisee, one time in the Madison County Record, a newspaper of general circulation in the City of Madison, Alabama.

READ, PASSED, and ADOPTED this 24th day of July 2023

Ranae Bartlett, Council President
City of Madison, Alabama

ATTEST:

Lisa D. Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this _____ day of July 2023

Paul Finley, Mayor
City of Madison, Alabama

PUBLIC RIGHT-OF-WAY USE AGREEMENT (FIBER NETWORK)

THIS PUBLIC RIGHT-OF-WAY USE AGREEMENT (this “Agreement”) is entered into as of July 25, 2023 (the “Effective Date”), by and between the **City of Madison, Alabama** (herein “Madison” or “the City”), a government unit in the State of Alabama, and **Crown Castle Fiber LLC**, a New York limited liability company (“Utility”). The City and Utility may be referred to collectively herein as the “Parties” and each a “Party”.

RECITALS

WHEREAS, Utility, a telecommunication carrier as defined in 47 U.S.C. §153(51), intends to install its Utility Facilities within the Right-of-Way, using: (i) existing telephone, electric or cable poles and conduit in the Right-of-Way through agreement with their respective owners, and (ii) poles and conduit in the Right-of-Way constructed and controlled by Utility; and

WHEREAS, subject to 47 U.S.C. §253 and applicable Laws, the City desires to grant Right-of-Way access to Utility on a non-exclusive and competitively neutral basis for installation of Utility Facilities subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of mutual benefits and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

- 1) **Definitions:** In addition to terms otherwise defined herein, the following definitions shall apply generally to the provisions of this Agreement:
- a) **Agency:** Any governmental or quasi-governmental agency other than the City.
 - b) **Application:** A Permit application submitted by Utility to the City for construction of Utility Facilities in the Right-of-Way, in a form approved by the City and requiring no more information than required by the City from other utility providers applying for installation of facilities in the Right-of-Way.
 - c) **Fiber Network:** The fiber-optic cable, manholes, handholes and related equipment to be installed and operated by Utility in the Right-of-Way under this Agreement to provide telecommunications services within the City.
 - d) **Gross Revenue:** Any and all payments made to, or compensation or consideration received directly by the Utility, from the operation or use of the Fiber Network physically located within the City Right-of-Way to provide telecommunications services to customers that are wholly consumed within the City. Gross revenue shall not apply to nor shall it include i) any charges attributable to the costs associated with construction ii) any payments for sale of its Fiber Network or facilities; iii) any unrecovered bad debts charged off after diligent, unsuccessful efforts to collect, iv) any taxes of general applicability imposed on the customer or the transactions by federal, state, or local law and required to be collected and remitted by the Utility or any of its affiliates to the governmental unit, including sales, use, and utility taxes, v) any payment, consideration, or value of any kind from a judgment or settlement arising from legal disputes; vi) any dividend or interest from investments; vii) any property rental income; viii) any payments, compensation, or consideration of any kind for provisioning, constructing, maintaining, operating, or licensing Wireless Facilities, or ix) any reimbursement of Franchise Fees.
 - e) **Laws:** Any and all applicable constitutions, charters, by-laws, statutes, ordinances, resolutions, regulations, judicial decisions, rules, tariffs, administrative orders, certificates, orders, or other requirements of the City or any Agency, in effect at any time during the Term.
 - f) **Micro Wireless Facility:** A Utility Facility that meets the following qualifications: (i) is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height; and (ii) any exterior antenna is no longer than 11 inches.

- g) Permit: Singularly or collectively, all necessary approvals from the City for Utility to construct Utility Facilities in the Right-of-Way as requested by application.
- h) Person: An individual, a corporation, a limited liability company, a general or limited partnership, a joint venture, a business trust, or any other form of business entity or association.
- i) Right-of-Way: The space in, upon, above, along, across, and over the public streets, roads, lanes, courts, ways, alleys, boulevards, and places, including all public utility easements and public service easements as the same now or hereafter may exist, that are under the jurisdiction of the City. This term shall not include county, state, or federal rights-of-way or any property owned or controlled by any Person or Agency other than the City, except as provided by applicable Laws or pursuant to an agreement between the City and any such Person or Agency.
- j) Utility Facilities: Utility's Fiber Network and Utility Poles placed in the Right-of-Way.
- k) Utility Pole: A pole or similar structure in the Right-of-Way owned by Utility or any third party (but not the City) that is or may be used, in whole or in part, for telecommunications, cable or broadband services, or electric distribution.
- l) Term: This Agreement shall commence on the Effective Date and extend for an initial term of ten (10) years (the "Initial Term"), unless it is earlier terminated by either Party in accordance with the terms of this Agreement. This Agreement shall automatically renew for up to **three (3)** additional terms of five (5) years each (each a "Renewal Term", together with the Initial Term, the "Term") upon the terms and conditions set forth herein, unless Utility gives written notice to the City of its intent not to renew this Agreement at least **three (3)** months prior to the expiration of the Initial Term or then-current Renewal Term. Notwithstanding, Utility may terminate this Agreement at any time by providing the City with sixty (60) days prior written notice. New terms, provisions, or conditions may also be required by either party upon renewal which are applicable generally to other franchisees for similar services or applicable generally to the industry to clarify the intent of this Agreement, which may arise from any unforeseen circumstances or interpretations of this Agreement, and/or which are based on the history of performance of the Utility. The parties agree to negotiate new terms and conditions in good faith. Notwithstanding the foregoing, if neither party provides written notice of its intent to negotiate new terms at least six (6) months prior to the expiration of the Initial Term or applicable Renewal Term, this agreement shall automatically renew on the same terms and conditions herein.
- m) Wireless Facilities: Equipment at a fixed location that enables wireless communications including but not limited to equipment associated with wireless communications, radio transceivers, antennas, coaxial, metallic, or fiber-optic cable on or adjacent to such fixed location, regular and backup power supplies, poles and other structures the equipment is attached to, and comparable equipment, regardless of technological configuration.

2) Scope of Agreement

- a) Grant of Access: The City hereby authorizes and permits Utility to enter upon the Right-of-Way and to construct, attach, install, operate, remove, relocate, repair, and maintain the Utility Facilities during the Term. Where necessary, Utility shall obtain permission to attach to any third-party Utility Poles, conduits or related facilities. Utility understands that this Agreement does not provide Utility the exclusive use of the Right-of-Way and that the City has the right to permit other telecommunication service providers to install equipment or devices in the Right-of-Way. Nothing herein shall prevent Utility from providing telecommunication services to its customers, including use of capacity or lease of portions of Utility Facilities. The customer(s)'s rights to use capacity or lease such portions of Utility's Facilities shall not require a separate franchise, license, use agreement, permits or other authorizations provided that Utility does not in any way surrender control over Utility Facilities and Utility remains responsible for its obligations under this Agreement.
- b) Conditions to Rights: Nothing in this Agreement shall be deemed to grant, convey, create, or vest in Utility a real property interest in land, including any fee, leasehold interest, or easement.

- c) **No Interference:** Utility shall not interfere with any other use of the Right-of-Way, except as allowed by Permit, permission of any facility owner, or applicable Laws. The City agrees to require the same prohibition on interference from all other Persons permitted to use the Right-of-Way during the Term.
- d) **No Priority:** This Agreement does not establish any priority for the use of the rights-of-way by Utility or by any present or future franchisees or other permit holders. In the event of any dispute as to the priority of use of the rights-of-way, the first priority shall be to the City in the performance of its various functions, the second priority shall be to the public generally, and thereafter, as between franchisees and other permit holders, as reasonably determined by the City on a competitively neutral and nondiscriminatory basis, in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Alabama.

3) **Permit Process**

- a) **Permits Required:** If the construction, attachment, installation, operation, maintenance, or modification of Utility Facilities in the Right-of-Way shall require any Permit under Law, Utility shall apply for the appropriate Permit and pay the associated Permit fees, provided: (i) the Permit fee only encompasses the City's reasonable, direct costs of processing the Permit application; and (ii) such Permits are required from other utility providers for the installation of facilities in the Right-of-Way.
- b) **Processing of Permits:** The City shall process Applications within sixty (60) days (the "**Shot Clock**"), on the following schedule: (i) within ten (10) days of receipt of an Application, the City shall determine if the Application is complete and inform Utility; (ii) if the City issues a notice of incompleteness, then the Shot Clock will stop until Utility responds; (iii) upon Utility remedying the incompleteness, the Shot Clock will reset at sixty (60) days; (iv) if the City finds the response to be incomplete, the Shot Clock will stop again, but restart and not reset when the Utility responds; (v) if the City has not provided necessary Permits at the expiration of the Shot Clock, then the Permit is deemed to have been granted and Utility is free to commence construction as set forth in the Application.
- c) **General Terms:** The Utility Facilities shall not be subject to any zoning, planning, or land use regulation or to any discretionary approval process or public hearing, except to the extent such processes have been applied to all telecommunications utility installations permitted within the Right-of-Way. Utility shall provide "**As-Built Drawings**" upon completion of any work under a Permit.
- d) **Alternative Excavation Methods:** The City may consider alternative excavation methods as deemed appropriate by both Parties. The City's approval of such methods shall be on the same terms as other utility installations using such methods.

- 4) **Relocation:** At no cost to the City, Utility shall relocate or adjust the Utility Facilities as required in connection with any future improvements constructed on behalf of the City in the Right-of-Way ("**Public Project**") as requested in writing by the City within a reasonable time under the circumstances so long as all other occupiers of the same Right-of-Way are required under the same conditions as Utility. The City will use its best effort to accommodate Utility's request for relocation, including providing an equivalent alternative location of Utility Facilities. Any costs related to projects other than Public Projects which require the relocation or adjustment of Utility Facilities shall be borne by the applicable Person funding the project.

5) **Damage to Right-of-Way or other Property**

- a) Whenever Utility excavates or does other work in the public right-of-way, such excavation or other work shall be done in compliance with the laws and regulations of the City in effect at the time of such excavation or other work. All work authorized and required under this Agreement shall be accomplished in a safe, thorough, and workmanlike manner, or better. All installation of facilities shall be durable and installed in accordance with current professional engineering standards.
- b) If at any time the Utility intends to perform construction work in any right-of-way, the Utility shall obtain a right-of-way permit from the City and shall provide the City with notice before commencing any such work as required by the Right-of-Way Permit application process.

- c) In no less than ten (10) business days after the completion of repair or installation, unless otherwise approved by the City, Utility shall restore or replace any pavement, sidewalk, pedestrian lighting, curbs, gutters, grass, landscaping material or other materials or structure damaged in the course of its work to City standards at Utility's sole expense, and shall thereafter, from time to time, readjust, fill and finish the same as may be necessary due to settling of the earth associated with Utility's disruption of the public way. In the event excavation or disturbance of special sidewalk pavement areas is necessary, Utility shall restore those areas to their preexisting conditions which restoration shall meet City standards. Failures within an area which has been disturbed, excavated or encumbered by Utility which are discovered within twenty-four (24) months of the restoration or replacement specified herein, shall be the responsibility of Utility pursuant to this provision.
 - d) If, after thirty (30) days written notice from the City to Utility, Utility fails to commence, neglects, or refuses to make restorations as required under this Section, then the City may (but is not required to) do such work or cause it to be done, and Utility shall pay the cost thereof to the City within thirty (30) days of the City providing an itemized list of the costs and expenses incurred in performing such work. The City may, at its option, recover such amount from the performance bond, certificate of deposit, letter of credit or insurance required herein. If Utility causes any damage to private property in the process of restoring facilities, Franchisee shall repair such damage, ordinary wear and tear excepted. Utility shall warrant any restoration work performed under this Agreement, including the maintenance of any landscaping or vegetation installed as part of the restoration work, for a period of twenty-four (24) months. This restoration requirement shall survive the expiration, revocation and termination of this Agreement.
 - e) In any dispute over the adequacy of restoration or maintenance under this Section, the City shall have the authority, in the exercise of its reasonable discretion, to determine the adequacy of the restoration or maintenance.
 - f) The City reserves the right to inspect, upon seven (7) days written notice to Utility, the installation and maintenance of the fiber optic cable and related equipment. The City shall have the right to inspect all work performed by Utility in, on or above City rights-of-way, whether during the performance of such work or after completion as long as such inspection does not disrupt Utility's system operation.
- 6) Compensation to the City:** The Utility shall pay or cause to be paid to the City the amounts set forth in this Section Six as compensation for this Agreement.
- a) Franchise Fees—Amount. The Utility shall pay to the City franchise fees in an amount equal to three percent (3%) of Gross Revenues, as defined herein, collected by the Utility for the first two (2) years from the Effective Date of this Agreement. Thereafter, for the next two (2) year term Utility shall pay The City an amount equal to four percent (4%) of the gross revenues collected by the Utility. For the remainder of this Agreement, Utility shall pay The City an amount equal to five percent (5%) of the gross revenues collected by Utility.
 - b) Franchise Fees—Payment. Payments of franchise fees shall be made on an annual basis and shall be remitted not later than thirty (30) days after the last day of December throughout the term of this Agreement.
 - c) Utility to Submit Franchise Fee Report. The Utility shall submit to the City, not later than thirty (30) days after the last day of December throughout the term of this Agreement, a report setting forth the basis for the computation of Gross Revenues on which the annual payment of franchise fees is being made.
- 7) Communications with the City of Madison and its Citizens**
- a) The Utility agrees that its employee, representative and/or all authorized subcontractors performing any work with or on behalf of the Utility shall be obligated to readily identify themselves upon a reasonable request from any citizen and/or property owner upon such employee, representative and/or sub-contractor entering any public and/or private property.
 - b) The Utility agrees that its employees performing any work within the City of Madison shall be obligated to maintain some form of identification on all vehicle utilized to perform work within rights-of-way so that all citizens can reasonably ascertain that the vehicle is conducting work with the Utility.

- c) To the best extent practicable, the Utility and its employees, representatives and/or all authorized subcontractors will attempt to notify all residents and/or owners of property, in advance, that the Utility, its representatives and/or its subcontractors seek to enter their property to perform work authorized by this Agreement.
- d) The City shall have the right to ask the Utility for a conference within thirty (30) days of such request, during which Utility will provide to the City a schedule of its then-proposed or then-anticipated construction activities that may affect the rights-of-way and any activities that will entail excavation or tunneling within the rights-of-way. Further, Utility shall meet with the City and other franchise holders and users of the rights-of-way upon written notice as determined by the City, to schedule and coordinate construction in the rights-of-way. All construction locations, activities, and schedules shall be coordinated as ordered by the City to minimize public inconvenience, disruption, or damages.
- 8) **Indemnification: To the extent permitted by Law, Utility hereby agrees to indemnify, defend and hold harmless The City, its Mayor and Council, appointed boards and commissions, officials, officers, employees and insurance carriers, individually and collectively, from all losses, claims, suits, judgments, demands, expenses, subrogation, attorney's fees, costs or actions of any kind and nature resulting from personal injury to any person, including employees of Utility or of any contractor or subcontractor employed by Utility, (including bodily injury and death) or damages to any property, arising out of Utility's use and occupancy of The City's right-of-way and Utility's operations conducted thereon or out of the acts or omissions of Utility, its contractors, subcontractors, officers, agents and employees while exercising any of the other rights or privileges granted by this Agreement, and by its acceptance of the franchise, Utility agrees that it will pay all damages and penalties which The City may be legally required to pay as a result of the Utility. Notwithstanding the foregoing, Utility shall not be obligated to indemnify The City for claims resulting solely from the grossly negligent or willful acts of The City or its representatives.**
- 9) **Compliance with Laws:** Notwithstanding anything to the contrary in this Agreement, each Party shall ensure that activities performed under this Agreement comply with Laws, including: (i) worker's compensation laws, (ii) unemployment compensation laws, (iii) the Federal Social Security Law, (iv) the Fair Labor Standards Act, (v) the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Section 31-13-1 and (vi) all Laws relating to environmental matters or occupational safety.
- 10) **Insurance**
- a) **Insurance Coverage:** Utility shall maintain at all times during the term of this Agreement (i) Commercial General Liability insurance protecting Utility in an amount of One Million Dollars (\$1,000,000) per occurrence (combined single limit), including bodily injury and property damage, One Million Dollars (\$1,000,000) per occurrence personal and advertising injury and in an amount of Two Million Dollars (\$2,000,000) annual aggregate and products-completed operations; (ii) Commercial Automobile Liability Insurance protecting Utility in an amount of One Million Dollars (\$1,000,000) per accident (combined single limit), including bodily injury and property damage. The Commercial General Liability insurance policy shall include the City, its elected officials, officers, and employees as additional insureds as respects any covered liability arising out of Utility's performance of work under this Agreement. Coverage shall be in an occurrence form and in accordance with the limits and provisions specified herein. Claims-made policies are not acceptable. Such insurance shall be endorsed to provide the City with at least thirty (30) days' advance written notice of any cancellation by the insurer other than for non-payment of premium. Utility shall be responsible for notifying the City of any change or reduction of the occurrence or aggregate limits set forth above.
- b) **Filing of Certificates and Endorsements:** Prior to the commencement of any work pursuant to this Agreement, Utility shall file with the City per the Notice section of this Agreement the required original certificate(s) of insurance with endorsements, which shall state the following:

- (i) The policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts.
- (ii) That Utility's Commercial General Liability insurance policy is primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance; and
- (iii) That Utility's Commercial General Liability insurance policy waives any right of recovery the insurance company may have against the City.
- c) Workers' Compensation Insurance: Utility shall maintain at all times during the Term statutory workers' compensation and employer's liability insurance in an amount of One Million Dollars (\$1,000,000) for each employee, One Million Dollars (\$1,000,000) per disease, and a One Million Dollar (\$1,000,000) policy limit and shall furnish the City with a certificate showing proof of such coverage.
- d) Insurer Criteria: Any insurance provider of Utility shall be authorized to do business in the state in which the City is located and shall carry a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A" Overall and a Financial Size Category of "X" (i.e., a size of \$500,000,000 to \$750,000,000 based on capital, surplus, and conditional reserves).
- e) Severability of Interest: Any self-insured retentions must be stated on the certificate of insurance. "Severability of interest" or "separation of insureds" clauses shall be made a part of the Commercial General Liability and Commercial Automobile Liability policies.

11) Bond, Certificate of Deposit or Letter of Credit

- a) Utility shall obtain and maintain, or cause to be obtained and maintained, during the entire term of the franchise and any extensions and renewals thereof, at its cost and expense, and file with the City Clerk a corporate surety (performance) bond, certificate(s) of deposit assigned to the City or irrevocable, unconditional letter of credit in the amount of Fifty Thousand Dollars (\$50,000), both to guarantee the timely construction and full activation of Utility's system and to secure the faithful performance of Utility of all its obligations provided under this Franchise Agreement. The amount of such bond, certificate(s) of deposit or letter of credit shall be increased to the amount of One Hundred Thousand Dollars (\$100,000) following the initial ten (10) year term of this Agreement. Failure to timely obtain, file, assign and/or maintain such bond, certificate(s) of deposit or letter of credit at all times at the required amount shall constitute a substantial violation of this Agreement. If Utility elects to deposit and assign for the benefit of the City a certificate(s) of deposit, any interest earned on the principal sum required shall inure to the benefit of the Utility and any tax liability on said interest will inure to the Utility.
- b) **Conditions**: The performance bond shall provide, and certificate(s) of deposit and letter of credit shall be subject to, the following conditions:
 - (1) There shall be recoverable by The City, jointly and severally from the principal and surety, or from the certificate(s) of deposit or letter of credit, any and all fines and penalties due to the City and any and all damages, losses, costs, and expenses suffered, incurred by or resulting from failure of Utility to: faithfully comply with the provisions of the franchise; comply with all applicable orders, permits and directives of any City agency or body having the City over its acts or defaults; pay any claims, liens or taxes due to The City which arise from or by reason of the construction, operation, maintenance or repair of the communications system.
 - (2) The total amount of the bond, certificate(s) of deposit or letter of credit shall be forfeited in favor of the City in the event:
 - (i) Utility abandons its system at any time during the term of the franchise or extension thereof or ceases operation of the system for a period in excess of six (6) months; and/or
 - (ii) Utility assigns the franchise in violation of the terms of this Agreement.

- c) The performance bond, certificate(s) of deposit or letter of credit required herein shall be in a form satisfactory to the City Attorney. Any performance bond shall require thirty (30) days' written notice of any non-renewal, alteration or cancellation to both the City and Utility. Utility shall, in the event of any such cancellation notice, obtain, pay all premiums for, and file with the City, written evidence of the issuance of a replacement bond within thirty (30) days following the receipt by the City or Utility of any notice of cancellation. Failure to do so shall constitute a substantial violation of this Agreement. The performance bond, certificate(s) of deposit or letter of credit shall at all times be maintained at the amount and levels as required in this section and shall be a continuing obligation for the duration of the franchise and thereafter until the Utility has liquidated all of its obligations with the City that may have arisen by reason of the construction, operation or maintenance of the system or breach or termination of the franchise. If the bond, certificate(s) of deposit or letter of credit is drawn down for any reason, the bond, certificate(s) of deposit or letter of credit shall be renewed to the amounts required by the City.
- d) The City shall notify the Utility in writing and allow Utility thirty (30) days to cure, unless such time to cure is extended by the City, before calling the surety bond or drawing upon the certificate of deposit or letter of credit.

11) Force Majeure: Except for payment of amounts due, neither Party shall have any liability for its delays or its failure of performance due to: fire, explosion, pest damage, power failures, strikes or labor disputes, acts of God, inclement weather, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages, or other causes reasonably beyond its control, whether or not similar to the foregoing.

12) Contacts and Notices

- a) Utility shall provide the means for immediate notification and communication by the City with the supervisor in the field by means of a pager, cellular phone or other similar means of communication during all phases of construction. Similarly, the Utility must identify any sub-contractor associated with any complaint from citizens and/or the City and provide a means of immediate communication with such sub-contractor, including either a pager, cellular phone or other means of communication upon such request from the City.
- b) All notices Pursuant to this Agreement shall be in writing and delivered personally or delivered at the locations below by: (i) U.S. Postal Service registered or certified mail; or (ii) overnight delivery service. Notices shall be deemed given upon receipt in the case of personal delivery, three (3) days after deposit in the mail, or the next day in the case of overnight delivery. Either Party may change or add any address by written notice to the other Party delivered in the same manner.

If to the City:

Brian Kilgore
 City Attorney
 City Hall of Madison
 100 Hughes Road
 Madison, Alabama 35758

If to Utility:

Crown Castle Fiber LLC
 c/o Crown Castle
 2000 Corporate Drive
 Canonsburg, PA 15317
 Attn: Teddy Adams, General Counsel

With a copy to:

Steve Smith
 City Administrator
 City Hall of Madison
 100 Hughes Road
 Madison, Alabama 35758

With a copy to:

Crown Castle Fiber LLC
 c/o Crown Castle
 2000 Corporate Drive
 Canonsburg, PA 15317
 Attn: Contracts Administration

24/7 emergency contact number:

256-774-4404

24/7 emergency contact information:

1-855-933-4237

13) **Default:** Upon written notice of material default (“Default”) by either Party, the other Party shall have thirty (30) days to cure the Default. If the Default cannot reasonably be cured within thirty(30) days by the defaulting Party, the cure period shall be extended by a reasonable time provided that the defaulting Party commences its cure during the thirty (30) day period and diligently pursues the cure to completion. Either Party may terminate this Agreement upon an uncured Default.

14) **Assignment:** This Agreement shall not be assigned by Utility without the written consent of the City. However, the assignment, transfer or delegation of the rights and obligations of Utility hereunder to Utility’s financially viable parent, subsidiary, successor, or affiliate under common control shall not require consent and shall be effective upon written notice to the City. This Agreement is binding upon the successors and assigns of the Parties.

15) Governing Law

- a) Choice of Law: This Agreement shall be governed and construed by and in accordance with the laws of the state where the City is located, without reference to its conflict of law principles.
- b) Venue: Any litigation commenced under this Agreement shall be brought exclusively in the federal or state courts with authority in the City. The prevailing Party shall be entitled to recover its cost of suit, including reasonable attorneys’ fees.
- c) Change of Laws: In the event of any legislative or regulatory change to applicable Laws that implement greater limitations on Right-of-Way access fees, permit fees, and/or permitting timelines, those limits set forth in this Agreement shall be automatically adjusted on the effective date of the applicable Laws and shall apply to all applicable Utility Facilities.

16) General Provisions

- a) Interpretation: All headings contained in this Agreement are inserted for convenience only. Where appropriate: the singular shall include the plural and vice versa; “or” shall mean “and/or”; and “including” shall mean, “including but not limited to”. In any case where the approval or consent of one Party is to be given under this Agreement, such Party shall not unreasonably delay, condition, or withhold its approval or consent.
- b) Severability of Provisions: If any one or more of these provisions of this Agreement become void, voidable, or unenforceable for any reason, such provisions shall be deemed severable from the remaining provisions of this Agreement and shall not affect the legality, validity, or constitutionality of the remaining portions of this Agreement.
- c) Waiver; Amendment: The waiver by either Party of any Default or any violation of this Agreement shall not be deemed to be a waiver or continuing waiver of any subsequent Default or violation. This Agreement may not be amended except pursuant to a written instrument signed by both Parties.
- d) Representations and Warranties: Each of the Parties represents and warrants that it has the full right, power, and authority to enter into and perform its obligations hereunder and that no other consents are required.
- e) Entire Agreement: This Agreement contains the entire understanding between the Parties with respect to the subject matter herein. There are no representations, agreements, or understandings, whether oral or written, between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein.

IN WITNESS WHEREOF, the Parties intending to be bound have executed this Agreement as of the Effective Date.

THE CITY:

City of Madison, Alabama

UTILITY:

Crown Castle Fiber LLC

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

ORDINANCE NO. 2023-134**AN ORDINANCE EXTENDING TERM OF FRANCHISE
OF KNOLOGY OF HUNTSVILLE, INC. D/B/A WOW!**

WHEREAS, Knology of Huntsville, Inc. doing business as WOW! Internet-Cable-Phone (herein "WOW!") has operated and maintained a franchise for construction, installation, operation, and maintenance of a cable and broadband system within the City's territorial jurisdiction since 2006; and

WHEREAS, the City Council of the City of Madison has determined that the continuation of WOW!'s franchise for an additional five-year term will promote the health, safety, and welfare of the public and otherwise serve the public interest; and

WHEREAS, by this Ordinance, the Council desires to extend its grant of a non-exclusive franchise to WOW! and to authorize the execution of an amended Franchise Agreement between the City of Madison and WOW!;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Madison as follows:

Section 1. The City, in consideration of the acceptance of the mutual covenants and agreements and of all the terms and conditions of this Ordinance hereby grants to WOW!, its successors and assigns, the right, privilege, authority, and non-exclusive franchise to construct, own, maintain, enlarge, extend, improve, and operate a cable and broadband system, as defined in the Franchise Agreement, within the City, and to use the streets, avenues, alleys, public ways, and places in the City for such purposes in accordance with the terms, conditions, and provisions of this Ordinance.

Section 2. That the Mayor is hereby authorized and directed to execute the "Franchise Agreement" attached hereto as **Exhibit A** and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same.

Section 3. If any word, clause, phrase, sentence, paragraph, or provision of this Ordinance or the Franchise Agreement shall be invalidated by a court of competent jurisdiction, such invalidity shall not affect any other word, clause, phrase, sentence, paragraph, or provision hereof.

Section 4. That the Franchise Agreement shall be in full force and effect after the date of its final passage, adoption, and proper execution. A synopsis of this Ordinance or synopsis thereof shall be published one time in the Madison County Record, a newspaper of general circulation in the City of Madison, Alabama.

READ, PASSED, and ADOPTED this 10th day of July 2023

Ranae Bartlett, Council President
City of Madison, Alabama

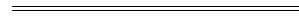
ATTEST:

Lisa Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this _____ day of July 2023

Paul Finley, Mayor
City of Madison, Alabama

EXHIBIT A



Franchise Agreement

between

City of Madison, Alabama

and

Knology of Huntsville, Inc.

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AGREEMENT

This **AGREEMENT** is effective as of the 11th day of July 2023 (the “Effective Date”), and is between the City of Madison, Alabama (the “Franchising Authority” or the “City”), and Knology of Huntsville, Inc. (the “Company”). For purposes of this Agreement, unless otherwise defined in this Agreement, the capitalized terms, phrases, words, and their derivations, shall have the meanings set forth in Appendix A.

The Franchising Authority, having determined that the financial, legal, and technical ability of the Company is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the current and future cable-related needs of the community and that, as of the Effective Date, the Company is in material compliance with the terms and conditions of the cable franchise preceding this Agreement, desires to enter into this Agreement with the Company for the construction, operation, and maintenance of a cable and broadband system on the terms and conditions set forth herein. In consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

**SECTION 1
GRANT OF AUTHORITY**

1.1 Grant of Franchise. The Franchising Authority hereby grants under the Cable Act a nonexclusive franchise (the “Franchise”) to occupy and use the Streets within the Franchise Area in order to construct operate, maintain, upgrade, repair, and remove the cable and broadband system, and provide cable services through the system, subject to the terms and conditions of this Agreement. This Franchise authorizes cable and broad service, and it does not grant or prohibit the right(s) of the Company to provide other services.

1.2 Term of Franchise. This Franchise shall be in effect for a period of five (5) years commencing on the Effective Date, unless renewed or lawfully terminated in accordance with this Agreement and the Cable Act.

1.3 Renewal. Subject to Section 626 of the Cable Act (47 U.S.C. § 546) and such terms and conditions as may lawfully be established by the Franchising Authority, the Franchising Authority reserves the right to grant or deny renewal of the Franchise.

1.4 Reservation of Authority. Nothing in this Agreement shall (i) abrogate or restrict the right of the Franchising Authority to perform any public works or public improvements of any description, except as explicitly provided herein, (ii) be construed as a waiver of any codes or ordinances of the Franchising Authority or of the Franchising Authority’s right to require the Company or any Person utilizing the Cable System to secure the appropriate permits or authorizations for its use, or (iii) be construed as a waiver or release of the rights of the Franchising Authority in and to the Streets. Notwithstanding the above, in the event of any conflict between this Agreement and any code or ordinance adopted by the Franchising Authority, the terms and conditions of this Agreement, which has been adopted by Ordinance, shall prevail, except where such conflict arises from the Franchising Authority’s lawful exercise of its police powers.

1.5 Competitive Equity and Subsequent Action Provisions.

1.5.1 Purposes. The Company and the Franchising Authority acknowledge that there is increasing competition in the video marketplace among cable operators, direct broadcast satellite providers, telephone companies, broadband content providers, and others; new technologies are emerging that enable the provision of new and advanced services to City residents; and changes in the scope and application of the traditional regulatory framework governing the provision of Video Services are being considered in a variety of federal, state, and local venues. To foster an environment where all Cable Service Providers and Video Service Providers using the Streets can compete on a competitively neutral and nondiscriminatory basis; encourage the provision of new and advanced services to City residents; promote local communications infrastructure investments and economic opportunities in the City; and provide flexibility in the event of subsequent changes in the law, the Company and the Franchising Authority have agreed to the provisions in this Section 1.5, and these provisions should be interpreted and applied with these purposes in mind. The parties agree that the Franchising Authority shall not be required to execute a franchise agreement or authorization with a competitive CSP or VSP that is identical, word-for-word, with this Agreement to avoid triggering the provisions of this Section 1.5, so long as the regulatory and financial burdens on and benefits to each CSP or VSP are materially equivalent to the burdens on and benefits to the Company. “Materially equivalent” provisions include but are not limited to franchise fees and the definition of Gross Revenues; system build-out requirements; security instruments; public, education and government access channels and support; customer service standards; and audits.

1.5.2 Fair Terms for All Providers. Notwithstanding any other provision of this Agreement or any other provision of law,

(a) If any VSP or CSP enters into any agreement with the Franchising Authority to provide Video Services or Cable Services to Subscribers in the Franchise Area, the Franchising Authority and the Company, upon written request of the Company, will use best efforts in good faith to negotiate the Company’s proposed Franchise modifications, and such negotiation will proceed and conclude within sixty (60) days, unless that period is reduced or extended by mutual agreement of the parties. If the Franchising Authority and the Company agree to Franchise modifications pursuant to such negotiations, then the Franchising Authority shall amend this Agreement to include the modifications.

If there is no written agreement or other authorization between the new VSP or CSP and the Franchising Authority, the Company and the Franchising Authority shall use the sixty (60) day period to develop and enter into an agreement or other appropriate authorization (to the extent the Company determines an agreement or authorization is necessary) that to the maximum extent possible contains provisions that will ensure competitive equity between the Company and other VSPs or CSPs, taking into account the terms and conditions under which the new VSP or CSP is allowed to provide Video Services or Cable Services to Subscribers in the Franchise Area.

(b) Following the Franchise modification negotiations provided for in Section 1.5.2(a), if the Franchising Authority and the Company fail to reach agreement in

such negotiations, the Company may, at its option, elect to replace this Agreement by opting in to the same franchise agreement or other lawful authorization that the Franchising Authority has granted to the new VSP or CSP. If the Company so elects, the Franchising Authority shall adopt the Company's replacement agreement at the next regularly scheduled City Council meeting.

(c) The Franchising Authority shall at all times enforce the state and federal ban on providing Cable Service without a franchise. The Franchising Authority's enforcement efforts shall be continuous and diligent throughout the term of this Agreement. Should the Franchising Authority not commence enforcement efforts within sixty (60) days of becoming aware of a VSP or CSP providing Video Service or Cable Service within the Franchise Area, the Company shall have the right to petition the Franchising Authority for the relief provided in Section 1.5.2 above.

1.5.3 Subsequent Change in Law. If there is a change in federal, state, or local law that provides for a new or alternative form of authorization, subsequent to the Effective Date, for a VSP or CSP utilizing the Streets to provide Video Services or Cable Services to Subscribers in the Franchise Area, or that otherwise changes the nature or extent of the obligations that the Franchising Authority may request from or impose on a VSP or CSP providing Video Services or Cable Services to Subscribers in the Franchise Area, the Franchising Authority agrees that, notwithstanding any other provision of law, upon the written request and at the option of the Company, the Franchising Authority shall: (i) permit the Company to provide Video Services or Cable Services to Subscribers in the Franchise Area on substantially the same terms and conditions as are applicable to a VSP or CSP under the changed law; (ii) modify this Agreement to comply with the changed law; or (iii) modify this Agreement to ensure competitive equity between the Company and other VSPs or CSPs, taking into account the conditions under which other VSPs or CSPs are permitted to provide Video Services or Cable Services to Subscribers in the Franchise Area. The Franchising Authority and the Company shall implement the provisions of this Section 1.5.3 within sixty (60) days after the Company submits a written request to the Franchising Authority. Should the Franchising Authority fail to implement these provisions within the time specified, this Agreement shall, at the Company's option and upon written notice to the Franchising Authority, be deemed amended as initially requested by the Company under this Section 1.5.3. Notwithstanding any provision of law that imposes a time or other limitation on the Company's ability to take advantage of the changed law's provisions, the Company may exercise its rights under this Section 1.5.3 at any time, but not sooner than thirty (30) days after the changed law goes into effect.

1.5.4 Effect on This Agreement. Any agreement, authorization, right, or determination to provide Cable Services or Video Services to Subscribers in the Franchise Area under this Section 1.5 shall supersede this Agreement.

SECTION 2 THE CABLE SYSTEM

2.1 The System and Its Operations.

2.1.1 Service Area. As of the Effective Date, the Company operates a Cable System within the Franchise Area.

2.1.2 System. As of the Effective Date, the Company maintains and operates a Cable System capable of providing over 250 Channels of Video Programming, which Channels may be delivered by analog, digital, or other transmission technologies, at the sole discretion of the Company.

2.1.3 System Technical Standards. Throughout the term of this Agreement, the Cable System shall be designed, maintained, and operated such that quality and reliability of System Signal will be in compliance with all applicable consumer electronics equipment compatibility standards, including but not limited to Section 624A of the Cable Act (47 U.S.C. § 544a) and 47 C.F.R. § 76.630, as may be amended from time to time.

2.1.4 Testing Procedures; Technical Performance. Throughout the term of this Agreement, the Company shall operate and maintain the Cable System in accordance with the testing procedures and the technical performance standards of the FCC.

2.2 Requirements with Respect to Work on the System.

2.2.1 General Requirements. The Company shall comply with ordinances, rules, and regulations established by the Franchising Authority pursuant to the lawful exercise of its police powers and generally applicable to all users of the Streets. The company specifically agrees to abide by all unemployment compensation laws; the Beason-Hammon Alabama Taxpayer and Citizen Protection Act and all other federal laws governing employment compensation, environmental matters and/or occupational safety. All installation of facilities shall be conducted in a safe and workman like manner. Furthermore, all installation shall be conducted in accordance with current professional engineering standards.

2.2.2 Protection of Underground Utilities. Both the Company and the Franchising Authority shall comply with the Alabama Underground Damage Prevention Act (Ala. Code § 37-15-1, *et seq.*), relating to notification prior to excavation near underground utilities, as may be amended from time to time.

2.2.3 Notice to City. If at any time the Company intends to perform construction work in any right-of-way, the Company shall obtain a right-of-way permit from the City and shall provide the City with notice before commencing any such work as required by the Right-of-Way Permit application process.

2.2.4 Notice to Residents. The Company shall have its employees, representatives and/or all subcontractors identify themselves to residents and/or owners of private property upon inquiry and such employees, representatives and/or subcontractors of the Company shall notify residents and/or owners of private property in advance of entry upon such private property. Furthermore, the Company agrees that its employees, representatives and/or all

subcontractors shall mark their vehicles with markings and/or decals that properly identify anyone attempting to make entry upon private property as an employee, representative and/or subcontractor of the Company.

2.3 Permits and General Obligations.

2.3.1 The Company shall be responsible for obtaining all permits, licenses, or other forms of approval or authorization necessary to construct, operate, maintain, or repair the Cable System, or any part thereof, prior to the commencement of any such activity. The issuance of permits, licenses, or other approvals shall not be unreasonably delayed or withheld by the Franchising Authority. The Company shall be solely responsible, either through its employees or its authorized contractors, for constructing, installing, and maintaining the Cable System in a safe, thorough, and reliable manner in accordance with all applicable standards and using materials of good and durable quality. The Company shall assure that any person installing, maintaining, or removing its facilities is fully qualified and familiar with all applicable standards. No third party shall tamper with, relocate, or otherwise interfere with the Company's facilities in the rights-of-way without the Company's approval and supervision; provided, however, that the Company shall make all reasonable efforts to coordinate with other users of the Streets to facilitate the execution of projects and minimize disruption in the public rights-of-way. All transmission and distribution structures, poles, other lines, and equipment installed by the Company for use in the Cable System in accordance with this Agreement shall be located so as to minimize interference with the proper use of the Streets and the rights and reasonable convenience of property owners who own property adjoining the Streets.

2.3.2 Code Compliance. The Company shall comply with all applicable building, safety, and construction codes. The parties agree that at present, Cable Systems are not subject to the low voltage regulations of the National Electric Code, National Electrical Safety Code, or other such codes or regulations. In the event that the applicable codes are revised such that Cable Systems become subject to low voltage regulations without being grandfathered or otherwise exempted, the Company will thereafter be required to comply with those regulations.

2.4 Conditions on Street Occupancy.

2.4.1 New Grades or Lines. If the grades or lines of any Street within the Franchise Area are lawfully changed at any time during the term of this Agreement, then the Company shall, upon at least forty-five (45) days' advance written notice from the Franchising Authority and at the Company's own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with the new grades or lines. If public funds are available to any Person using the Street for the purpose of defraying the cost of any of the foregoing work, the Franchising Authority shall make application for such funds on behalf of the Company. The Company shall be entitled to reimbursement of its costs should any other third party be compensated as a result of a required protection, alteration, or relocation of its facilities.

2.4.2 Relocation at Request of Third Party. The Company shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move

any structure, temporarily move its wires to permit the moving of such structure; provided that (i) the Company may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii) the Company agrees to arrange for such temporary relocation to be accomplished as soon as reasonably practicable, not to exceed forty five (45) days without the prior agreement of the Franchising Authority.

2.4.3 Restoration of Streets. If in connection with construction, operation, maintenance, or repair of the Cable System, the Company disturbs, alters, or damages any Street, the Company agrees that it shall, at its own cost and expense, restore the Street according to the standards set forth in the Alabama Department of Transportation's Utilities Manual. If the Franchising Authority reasonably believes that the Company has not restored the Street appropriately, then the Franchising Authority, after providing ten (10) business days' advance written notice and a reasonable opportunity to cure, may have the Street restored and bill the Company for the cost of restoration. The Company shall warrant any restoration work performed under this Agreement, including the maintenance of any landscaping or vegetation installed as part of the restoration work, for a period of twenty-four (24) months. This restoration requirement shall survive the expiration, revocation and termination of this Agreement. In any dispute over the adequacy of restoration or maintenance under this Section, the City shall have the authority, in the exercise of its reasonable discretion, to determine the adequacy of the restoration or maintenance.

2.4.4 Trimming of Trees and Shrubbery. The Company shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Company's wires, cables, or other equipment, the cost of which trimming shall not be borne by the Franchising Authority.

2.4.5 Aerial and Underground Construction. If at the time of Cable System construction all of the transmission and distribution facilities of all of the respective public or municipal utilities in the construction area are underground, the Company shall place its Cable System's transmission and distribution facilities underground. At the time of Cable System construction, in any place within the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Company shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aurally or underground; however, at such time as all existing aerial facilities of the respective public or municipal utilities are placed underground, the Company shall likewise place its facilities underground, subject to the provisions of Section 2.4.1. Company facilities placed underground at the property owner's request in any area where any of the transmission or distribution facilities of the respective public or municipal utilities are aerial shall be installed with the additional expense paid by the property owner. Nothing in this Section 2.4.5 shall be construed to require the Company to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment. The Company shall be entitled to expand and upgrade its System as it deems reasonably necessary.

2.4.6 New Developments. The Franchising Authority shall provide the Company with written notice, which may be accomplished via electronic mail to the Company's designee,

of the submission for technical review of planned developments within the Franchise Area requiring undergrounding of cable facilities.

2.4.7 Use of Existing Poles. Where possible, the Company shall attach its facilities to existing utility poles and shall use all reasonable efforts to enter into a pole attachment agreement with the owners of such existing utility poles. The Franchising Authority acknowledges that the Company may pass through to Subscribers the costs of attaching to existing utility poles in the Franchise Area and does not object.

2.5 Change in Franchise Area. In the event that the borders of the Franchise Area change, through annexation or otherwise, the Franchising Authority shall provide to the Company written notice of such change, including an updated map and an electronic list of all addresses in the Franchise Area. Franchise fees on gross revenues earned from Subscribers in annexed areas shall not be payable to the Franchising Authority until sixty (60) days after the Company's receipt of such updated map and electronic list of addresses and shall not be remitted to the Franchising Authority until the next regularly scheduled quarterly franchise fee payment as provided in Section 4.1.2 below.

SECTION 3 CUSTOMER SERVICE

Customer Service. The Company shall comply in all respects with the requirements set forth in Appendix B. Individual violations of those requirements do not constitute a breach of this Agreement.

SECTION 4 COMPENSATION AND OTHER PAYMENTS

4.1 Compensation to the Franchising Authority. As compensation for the Franchise, the Company shall pay or cause to be paid to the Franchising Authority the amounts set forth in this Section 4.1.

4.1.1 Franchise Fees—Amount. The Company shall pay to the Franchising Authority franchise fees in an amount equal to five percent (5%) of Gross Revenues derived from the operation of the Cable System to provide Cable Services in the Franchise Area.

4.1.2 Franchise Fees—Payment. Payments of franchise fees shall be made on a quarterly basis and shall be remitted not later than thirty (30) days after the last day of March, June, September, and December throughout the term of this Agreement.

4.1.3 Company to Submit Franchise Fee Report. The Company shall submit to the Franchising Authority, not later than thirty (30) days after the last day of March, June, September, and December throughout the term of this Agreement, a report setting forth the basis for the computation of Gross Revenues on which the quarterly payment of franchise fees is being made, which report shall enumerate, at a minimum, the following revenue categories: limited and expanded basic video service, digital video service, premium video service, pay-per-view and video-on-demand, equipment, installation and activation, franchise fees, guide, late fees, ad sales, home shopping commissions, and bad debt.

4.1.4 Franchise Fee Payments Subject to Audit; Remedy for Underpayment. No acceptance of any franchise fee payment by the Franchising Authority shall be construed as an accord and satisfaction that the amount paid is in fact the correct amount or a release of any claim that the Franchising Authority may have for further or additional sums payable under this Agreement. The Franchising Authority may conduct an audit no more than once annually to ensure payments in accordance with this Agreement. The audit of the Company's records shall take place at a location, in the State of Alabama, determined by the Company. The Franchising Authority is prohibited from removing any records, files, spreadsheets, or any other documents from the site of the audit. In the event that the Franchising Authority takes notes of any documents, records, or files of the Company for use in the preparation of an audit report, all notes shall be returned to the Company upon completion of the audit. The audit period shall be limited to three (3) years preceding the end of the quarter of the most recent payment. Once the Company has provided information for an audit with respect to any period, regardless of whether the audit was completed, that period shall not again be the subject of any audit.

If, as a result of an audit or any other review, the Franchising Authority determines that the Company has underpaid franchise fees in any twelve (12) month period by ten percent (10%) or more, then, in addition to making full payment of the relevant obligation, the Company shall reimburse the Franchising Authority for all of the reasonable costs associated with the audit or review, including all reasonable out-of-pocket costs for attorneys, accountants, and other consultants. The Franchising Authority shall provide the Company with a written notice of audit results and a copy of the final report presented to the Franchising Authority. The Company shall remit any undisputed amounts owed to the Franchising Authority as the result of the audit within forty-five (45) days, or other mutually acceptable timeframe, after the date of an executed settlement and release agreement.

4.2 Payments Not to Be Set Off Against Taxes or Vice Versa. The parties agree that the compensation and other payments to be made pursuant to this Section 4 are not a tax and are not in the nature of a tax. The Company and the Franchising Authority further agree that franchise fee payments required under Section 4.1.1 shall be in lieu of any permit fees, business license fees, and occupational license fees as are or may be required by the Franchising Authority. The Franchising Authority and the Company further agree that no additional taxes, licenses, fees, surcharges, or other assessments shall be assessed on the Company related to the provision of services or the operation of the Cable System, nor shall the Franchising Authority levy any other tax, license, fee, or assessment on the Company or its Subscribers that is not generally imposed and applicable to a majority of all other businesses.

4.3 Interest on Late Payments. If any payment required by this Agreement is not actually received by the Franchising Authority on or before the applicable date fixed in this Agreement, the Company shall pay interest thereon, from the due date to the date paid, at a rate of one percent (1%) per month.

SECTION 5 COMPLIANCE REPORTS

5.1 Compliance. The Franchising Authority hereby acknowledges that as of the Effective Date, the Company is in material compliance with all material laws, rules, and ordinances of the Franchising Authority.

5.2 Reports. Upon written request by the Franchising Authority and subject to Section 631 of the Cable Act, the Company shall promptly submit to the Franchising Authority such information as may be necessary to reasonably demonstrate the Company's compliance with any term or condition of this Agreement.

5.3 File for Public Inspection. Throughout the term of this Agreement, the Company shall maintain and make available to the public those documents required pursuant to the FCC's rules and regulations.

5.4 Treatment of Proprietary Information. The Franchising Authority agrees to treat as confidential, to the maximum extent allowed under the Alabama Public Records Law (Ala. Code § 36-12-40, *et seq.*) or other applicable law, any requested documents submitted by the Company to the Franchising Authority that are labeled as "Confidential" or "Trade Secret" prior to submission. In the event that any such documents submitted by the Company to the Franchising Authority are subject to a request for inspection or production, including but not limited to a request under the Alabama Public Records Law, the Franchising Authority shall notify the Company of the request as soon as practicable and in any case prior to the release of such information, by email or facsimile to the addresses provided in Section 10.6 of this Agreement, so that the Company may take appropriate steps to protect its interests in the requested records, including seeking an injunction against the release of the requested records. Upon receipt of said notice, the Company may review the requested records in the Franchising Authority's possession and designate as "Confidential" or "Trade Secret" any additional portions of the requested records that contain confidential or proprietary information.

5.5 Emergency Alert System. Company shall install and maintain an Emergency Alert System in the Franchise Area only as required under applicable federal and state laws. Additionally, the Franchising Authority shall permit only those Persons appropriately trained and authorized in accordance with applicable law to operate the Emergency Alert System equipment and shall take reasonable precautions to prevent any use of the Company's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. Except to the extent expressly prohibited by law, the Franchising Authority shall hold the Company and its employees, officers, and assigns harmless from any claims arising out of use of the Emergency Alert System, including but not limited to reasonable attorneys' fees and costs.

SECTION 6 ENFORCEMENT

6.1 Notice of Violation. If the Franchising Authority believes that the Company has not complied with the terms of this Agreement, the Franchising Authority shall first informally discuss the matter with the Company. If discussions do not lead to a resolution of the problem within twenty

one (21) days, the Franchising Authority shall notify the Company in writing of the nature of the alleged noncompliance (“Violation Notice”).

6.2 Company’s Right to Cure or Respond. The Company shall have thirty (30) days from the receipt of the Violation Notice, or any longer period specified by the Franchising Authority, to respond; cure the alleged noncompliance; or, if the alleged noncompliance, by its nature, cannot be cured within thirty (30) days, initiate reasonable steps to remedy the matter and provide the Franchising Authority a projected resolution date in writing.

6.3 Meeting with Officials. If the Company fails to respond to the Violation Notice received from the Franchising Authority, or the alleged noncompliance is not remedied within the cure period set forth above, the Franchising Authority shall schedule a meeting with representatives of both the Company and the Franchising Authority to resolve the matter. Such meeting shall be scheduled at a time that is reasonably convenient to both parties. The parties agree that if such a Violation Notice is issued with regard to any employee, representative and/or subcontractor of the Company, that the Company will provide the City the name of such employee, representative and/or subcontractor responsible for the alleged violation. Furthermore, if a subcontractor is identified as the cause of any violation, the Company shall procure a representative of the subcontractor for any meetings held with the City.

6.4 Enforcement. Subject to applicable federal and state law, if after the meeting provided for in Section 6.3, the Franchising Authority determines that the Company is in default of the provisions addressed in the Violation Notice, the Franchising Authority may:

- (a) seek specific performance.
- (b) commence an action at law for monetary damages or seek other equitable relief; or
- (c) in the case of a substantial default of a material provision of this Agreement, seek to revoke the Franchise in accordance with subsection 6.5 below.

6.5 Revocation.

6.5.1 Prior to the revocation or termination of the Franchise, the Franchising Authority shall give written notice to the Company of its intent to revoke the Franchise on the basis of an alleged substantial default of a material provision of this Agreement. The notice shall set forth the exact nature of the alleged default. The Company shall have thirty (30) days from receipt of such notice to submit its written objection to the Franchising Authority or to cure the alleged default. If the Franchising Authority is not satisfied with the Company’s response, the Franchising Authority may seek to revoke the Franchise at a public hearing. The Company shall be given at least thirty (30) days’ prior written notice of the public hearing, specifying the time and place of the hearing and stating the Franchising Authority’s intent to revoke the Franchise.

6.5.2 At the public hearing, the Company shall be permitted to state its position on the matter, present evidence, and question witnesses, after which the Franchising Authority’s governing body shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Company within ten (10) business days. The decision of the Franchising Authority’s

governing body shall be made in writing and shall be delivered to the Company. The Company may appeal such a decision to an appropriate court, which shall have the power to review the decision of the Franchising Authority’s governing body. The Company may continue to operate the Cable System until all legal appeals procedures have been exhausted.

6.5.3 Notwithstanding the provisions of this Section 6, the Company does not waive any of its rights under federal law or regulation.

**SECTION 7
ASSIGNMENTS AND OTHER TRANSFERS**

The Franchise shall be fully transferable to any successor in interest to the Company. A notice of transfer shall be filed by the Company to the Franchising Authority within forty-five (45) days of such transfer. The transfer notification shall consist of an affidavit signed by an officer or general partner of the transferee that contains the following:

(a) an affirmative declaration that the transferee shall comply with the terms and conditions of this Agreement, all applicable federal, state, and local laws, regulations, and ordinances regarding the placement and maintenance of facilities in any public right-of-way that are generally applicable to users of the public right-of-way and specifically including the Alabama Underground Damage Prevention Act (Ala. Code § 37-15-1, *et seq.*);

(b) a description of the transferee’s service area; and

(c) the location of the transferee’s principal place of business and the name or names of the principal executive officer or officers of the transferee.

No affidavit shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Company in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by WideOpenWest Finance, LLC.

**SECTION 8
INSURANCE, INDEMNITY AND BOND**

8.1 Insurance.

8.1.1 Liability Insurance. Throughout the term of this Agreement, the Company shall, at its sole expense, maintain comprehensive general liability insurance, issued by a company licensed to do business in the State of Alabama with a rating of not less than “A minus,” designating the Franchising Authority and its officers, boards, commissions, councils, elected officials, agents, and employees as additional insureds, and provide the Franchising Authority certificates of insurance demonstrating that the Company has obtained the insurance required in this Section 8.1.1. This liability insurance policy or policies shall be in the minimum amount of One Million Dollars (\$1,000,000.00) for bodily injury or death of any one person, One Million Dollars (\$1,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and One Million Dollars (\$1,000,000.00) for property damage resulting from any one accident. The policy or policies shall not be canceled except upon thirty (30) days’ prior written notice of cancellation to the City.

8.1.2 Workers' Compensation. The Company shall ensure its compliance with the Alabama Workers' Compensation Law.

8.2 Indemnification. The Company shall indemnify, defend, and hold harmless the Franchising Authority, its officers, employees, and agents acting in their official capacities from and against any liability or claims resulting from property damage or bodily injury (including accidental death) that arise out of the Company's construction, operation, maintenance, or removal of the Cable System, including but not limited to reasonable attorneys' fees and costs, provided that the Franchising Authority shall give the Company written notice of its obligation to indemnify and defend the Franchising Authority within ten (10) business days of receipt of a claim or action pursuant to this Section 8.2. Notwithstanding the foregoing, the Company shall not be obligated to indemnify the Franchising Authority for any damages, liability, or claims resulting from the willful misconduct or negligence of the Franchising Authority or for the Franchising Authority's use of the Cable System.

8.3 Liability and Indemnity. In accordance with Section 635A of the Cable Act, the Franchising Authority, its officials, employees, members, or agents shall have no liability to the Company arising from the regulation of Cable Service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this Franchise. Any relief, to the extent such relief is required by any other provision of federal, state, or local law, shall be limited to injunctive relief and declaratory relief.

8.4 Bond, Certificate of Deposit or Letter of Credit. The Company shall obtain and maintain, or cause to be obtained and maintained, during the entire term of the franchise and any extensions and renewals thereof, at its cost and expense, and file with the City Clerk a corporate surety (performance) bond, certificate(s) of deposit assigned to the City or irrevocable, unconditional letter of credit in the amount of Fifty Thousand Dollars (\$50,000), both to guarantee the timely construction and full activation of the Company's system and to secure the faithful performance of the Company and its subcontractors of all its obligations provided under this Franchise Agreement. The amount of such bond, certificate(s) of deposit or letter of credit shall be increased to the amount of One Hundred Thousand Dollars (\$100,000) following the initial term of this Agreement. Failure to timely obtain, file, assign and/or maintain such bond, certificate(s) of deposit or letter of credit at all times at the required amount shall constitute a substantial violation of this Agreement. If the Company elects to deposit and assign for the benefit of the City a certificate(s) of deposit, any interest earned on the principal sum required shall inure to the benefit of the Company and any tax liability on said interest will inure to the Company. The performance bond shall provide, and certificate(s) of deposit and letter of credit shall be subject to, the following conditions:

(1) There shall be recoverable by the City, jointly and severally from the principal and surety, or from the certificate(s) of deposit or letter of credit, any and all fines and penalties due to the City and any and all damages, losses, costs, and expenses suffered, incurred by or resulting from failure of Company and its subcontractors to: faithfully comply with the provisions of the franchise; comply with all applicable orders, permits and directives of any City agency or body having the City over its acts or defaults; pay any claims, liens or taxes due to the City which arise from or by reason of the construction, operation, maintenance or repair of the communications system.

(2) The total amount of the bond, certificate(s) of deposit or letter of credit shall be forfeited in favor of the City in the event:

- (i) Company or any of its subcontractors abandons its system at any time during the term of the franchise or extension thereof or ceases operation of the system for a period in excess of six (6) months; and/or
 - (ii) Company assigns the franchise in violation of the terms of this Agreement.
- (3) The performance bond, certificate(s) of deposit or letter of credit required herein shall be in a form satisfactory to the City Attorney. Any performance bond shall require thirty (30) days' written notice of any non-renewal, alteration or cancellation to both the City and Utility. Company shall, in the event of any such cancellation notice, obtain, pay all premiums for, and file with the City, written evidence of the issuance of a replacement bond within thirty (30) days following the receipt by the City or Company of any notice of cancellation. Failure to do so shall constitute a substantial violation of this Agreement. The performance bond, certificate(s) of deposit or letter of credit shall at all times be maintained at the amount and levels as required in this section and shall be a continuing obligation for the duration of the franchise and thereafter until the Company has liquidated all of its obligations with the City that may have arisen by reason of the construction, operation or maintenance of the system or breach or termination of the franchise. If the bond, certificate(s) of deposit or letter of credit is drawn down for any reason, the bond, certificate(s) of deposit or letter of credit shall be renewed to the amounts required by the City.
- (4) The City shall notify the Company in writing and allow Company thirty (30) days to cure, unless such time to cure is extended by the City, before calling the surety bond or drawing upon the certificate of deposit or letter of credit.

SECTION 9 PUBLIC, EDUCATION, GOVERNMENT ACCESS

9.1 Channel Capacity. At such time as the Company achieves ten percent (10%) market share of the paid Video Programming subscriber market within the Franchise Area, the Company agrees to make available channel capacity, up to one (1) fully dedicated Channel position, on the digital tier, to be designated for non-commercial, non-revenue generating public, educational, or governmental ("PEG") access purposes. Unused time on the PEG Channel positions may be utilized by the Company subject to terms to be mutually agreed upon by the Company and the Franchising Authority.

9.2 Programming Obligations. The Company shall not be required to dedicate a full-time channel for use by the Franchising Authority until it has produced eight (8) hours per week of non-duplicative original programming on the activated PEG Channel for three (3) consecutive months. Once the channel is dedicated for PEG use, the Franchising Authority certifies and commits to continued production at the eight (8) hours per week of non-duplicative original programming threshold throughout the term of the Agreement. Should the Franchising Authority fail to maintain eight (8) hours of programming per week for any period of three (3) consecutive months on any PEG Channel, the Company may reclaim the Channel position for its own use. For purposes of this Agreement, original programming includes programming produced specifically for, about, or by the City of Madison or Madison City Schools. Character-generated messages, video bulletin board messages, traffic cameras, or other passively produced content shall not count towards the programming obligations of this Agreement.

9.3 Channel Positions. At any time during the term of this Agreement and at the Company's sole option and discretion, the Company may (i) change the transmission technology by which PEG access programming is delivered to Subscribers, provided, however, that the quality of PEG access programming transmitted over the Cable System to Subscribers is of a quality comparable to that which was delivered to the Company by the PEG programmer, or (ii) relocate any PEG programming to a Channel position on its lowest digital tier service delivered to all of the Company's Subscribers. The Company shall notify the Franchising Authority at least thirty (30) days in advance of such changes.

9.4 Ownership. The Company does not relinquish its ownership of its ultimate right of control over a Channel position by designating it for PEG access use. A PEG access user, whether such user is an individual, educational, or governmental user, acquires no property or other interest in the Channel position by virtue of the use of a Channel position so designated.

9.5 Equipment. It shall be the sole responsibility of the Franchising Authority to obtain, provide, and maintain any equipment necessary to produce and cablecast PEG programming over the Cable System. The Company shall not be responsible for obtaining, providing, or maintaining any such equipment.

9.6 No Liability. The Company shall have no liability, nor shall it be required to provide indemnification to the Franchising Authority for PEG programming cablecast over the Cable System.

9.7 Complementary Service. The Company agrees to continue its complimentary service to City Hall and Dublin Park. Furthermore, the Company agrees to provide new additional complimentary access to the Company's Cable Service for the City of Madison Community Center located at 1329 Browns Ferry Road for the term of this agreement.

9.7.1 Company and the City acknowledge that the FCC-s Third Report and Order in MB Docket No. 05-311, entitled In the Matter of Implementation of Section 621(a)(I) of the Cable Communication Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 11992, adopted on August 1,2019 and released on August 2, 2019 ("Third Section 621 Order"), concluded that certain in-kind contributions required

by a franchise agreement to be provided to a franchising authority without charge are franchise fees under federal law, including but not limited to requirements to provide complimentary services. In the event that an appellate court of appropriate jurisdiction, in a final non-appealable order, overturns the FCC's conclusions in the Third Section 621 Order or in the event the FCC conclusions in the Third Section 621 Order are overturned, amended, revised or changed by the FCC or a federal legislative act, such that in-kind contributions required by a franchise agreement are no longer franchise fees under federal law, the City may notify Company in writing that it desires to receive one (1) Drop, one (1) cable outlet, and one (1) converter, if necessary, and Basic Cable Service, to the locations identified herein.

9.7.2 Upon the Company's receipt of such notice, the Company shall have one hundred twenty (120) days from receipt of City's notice to meet its obligations of this Section. Any such obligations shall apply only prospectively upon the end of such one hundred twenty (120) day period, or the end of any mutually agreed extension, and only through the end of the term of this franchise as specified in this Agreement. Notwithstanding the foregoing, the conditional obligations of this Section shall remain at all times subject to applicable law, including Company's right to assert that any such in-kind contributions requested by City remain franchise fees under applicable law.

9.7.3 Company and the City acknowledge that in kind contribution required to be provide to the franchising authority should be assigned a value equal to the Company's marginal cost in providing such contributions.

**SECTION 10
MISCELLANEOUS**

10.1 Controlling Authorities. This Agreement is made with the understanding that its provisions are controlled by the Cable Act, other federal laws, state laws, and all applicable local laws, ordinances, and regulations. To the extent such local laws, ordinances, or regulations clearly conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail, except where such conflict arises from the Franchising Authority's lawful exercise of its police powers.

10.2 Appendices. The Appendices to this Agreement and all portions thereof are, except as otherwise specified in this Agreement, incorporated by reference in and expressly made a part of this Agreement.

10.3 Enforceability of Agreement; No Opposition. By execution of this Agreement, the Company and the Franchising Authority acknowledge the validity of the terms and conditions of this Agreement under applicable law in existence on the Effective Date and pledge that they will

not assert in any manner at any time or in any forum that this Agreement, the Franchise, or the processes and procedures pursuant to which this Agreement was entered into and the Franchise was granted are not consistent with the applicable law in existence on the Effective Date.

10.4 Governmental Powers. The Franchising Authority expressly reserves the right to exercise the full scope of its powers, including both its police power and contracting authority, to promote the public interest and to protect the health, safety, and welfare of the citizens of the City of Madison, Alabama.

10.5 Entire Agreement. This Agreement, including all Appendices, embodies the entire understanding and agreement of the Franchising Authority and the Company with respect to the subject matter hereof and merges and supersedes all prior representations, agreements, and understandings, whether oral or written, between the Franchising Authority and the Company with respect to the subject matter hereof, including without limitation all prior drafts of this Agreement and any Appendix to this Agreement, and any and all written or oral statements or representations by any official, employee, agent, attorney, consultant, or independent contractor of the Franchising Authority or the Company. All ordinances or parts of ordinances or other agreements between the Company and the Franchising Authority that are in conflict with the provisions of this Agreement are hereby declared invalid and superseded.

10.6 Notices. All notices shall be in writing and shall be sufficiently given and served upon the other party by first class mail, registered or certified, return receipt requested, postage prepaid; by third-party commercial carrier; or via facsimile (with confirmation of transmission) and addressed as follows:

THE FRANCHISING AUTHORITY:
City of Madison, Alabama
Attn: Mayor
100 Hughes Road
Madison, Alabama 35758

With a copy to: City of Madison, Alabama
Attn: City Attorney
100 Hughes Road
Madison, Alabama 35758

COMPANY:
Knology of Huntsville, Inc. d/b/a WOW! Internet-Cable-Phone
Attn: Director of Operations
2401 10th Street SW
Huntsville, Alabama 35805

With a copy to: WOW! Internet-Cable-Phone
Attn: Legal Department
7887 East Belleview Avenue, #500
Englewood, Colorado 80111

10.7 Contacts for Subcontractors. The Company shall provide, upon the City's request, the contact information for any and all sub-contractors utilized by the Company for its work within the City, to include the name, address, office phone number and a means for immediate notification and communication with any such subcontractor and its supervisors in the field by means of a pager, cellular phone or other similar means of communication during all phases of construction.

10.8 Additional Representations and Warranties. In addition to the representations, warranties, and covenants of the Company to the Franchising Authority set forth elsewhere in this Agreement, the Company represents and warrants to the Franchising Authority and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the Franchising Authority) that, as of the Effective Date:

10.8.1 Organization, Standing, and Authorization. The Company is a corporation validly existing and in good standing under the laws of the State of Delaware and is duly authorized to do business in the State of Alabama and in the Franchise Area.

10.8.2 Compliance with Law. The Company, to the best of its knowledge, has obtained all government licenses, permits, and authorizations necessary for the operation and maintenance of the Cable System.

10.9 Maintenance of System in Good Working Order. Until the termination of this Agreement and the satisfaction in full by the Company of its obligations under this Agreement, in consideration of the Franchise, the Company agrees that it will maintain all of the material properties, assets, and equipment of the Cable System, and all such items added in connection with any upgrade, in good repair and proper working order and condition throughout the term of this Agreement.

10.10 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, permitted transferees, and assigns. All of the provisions of this Agreement apply to the Company, its successors, and assigns.

10.11 No Waiver; Cumulative Remedies. No failure on the part of the Franchising Authority or the Company to exercise, and no delay in exercising, any right or remedy hereunder including without limitation the rights and remedies set forth in this Agreement, shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other right or remedy, all subject to the conditions and limitations established in this Agreement. The rights and remedies provided in this Agreement including without limitation the rights and remedies set forth in Section 6 of this Agreement, are cumulative and not exclusive of any remedies provided by law, and nothing contained in this Agreement shall impair any of the rights or remedies of the Franchising Authority or Company under applicable law, subject in each case to the terms and conditions of this Agreement.

10.12 Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency,

commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions of this Agreement, which shall continue in full force and effect.

10.13 No Agency. The Company shall conduct the work to be performed pursuant to this Agreement as an independent entity and not as an agent of the Franchising Authority.

10.14 Governing Law. This Agreement shall be deemed to be executed in the City of Madison, Alabama, and shall be governed in all respects, including validity, interpretation, and effect, by and construed in accordance with the laws of the State of Alabama, as applicable to contracts entered into and to be performed entirely within that state.

10.15 Claims Under Agreement. The Franchising Authority and the Company, agree that, except to the extent inconsistent with Section 635 of the Cable Act (47 U.S.C. § 555), any and all claims asserted by or against the Franchising Authority arising under this Agreement or related thereto shall be heard and determined either in a court of the United States located in Alabama (“Federal Court”) or in a court of the State of Alabama of appropriate jurisdiction (“Alabama State Court”). To effectuate this Agreement and intent, the Company agrees that if the Franchising Authority initiates any action against the Company in Federal Court or in Alabama State Court, service of process may be made on the Company either in person or by registered mail addressed to the Company at its offices as defined in Section 10.6, or to such other address as the Company may provide to the Franchising Authority in writing.

10.16 Modification. The Company and Franchising Authority may at any time during the term of this Agreement seek a modification, amendment, or waiver of any term or condition of this Agreement. No provision of this Agreement nor any Appendix to this Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Company, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution, letter of agreement, or order by the Franchising Authority, as required by applicable law.

10.17 Delays and Failures Beyond Control of the Parties. Notwithstanding any other provision of this Agreement, the neither party shall be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Agreement due to strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, technical failure, sabotage, or other events, where the party has exercised all due care in the prevention thereof, to the extent that such causes or other events are beyond the control of the parties and such causes or events are without their fault or negligence. In the event that any such delay in performance or failure to perform affects only part of a party’s capacity to perform, the party shall perform to the maximum extent it is able to do so and shall take all steps within its power to correct such cause(s). The parties agree that in correcting such cause(s), they shall take all reasonable steps to do so in as expeditious a manner as possible. The Company shall promptly notify the Franchising Authority in writing of the occurrence of an event covered by this Section 10.16, and the Franchising Authority shall give like notice to the Company.

10.18 Duty to Act Reasonably and in Good Faith. The Company and the Franchising Authority shall fulfill their obligations and exercise their rights under this Agreement in a reasonable manner and in good faith. Notwithstanding the omission of the words “reasonable,” “good faith,” or similar terms in the provisions of this Agreement, every provision of this Agreement is subject to this section.

10.19 Contractual Rights Retained. Nothing in this Agreement is intended to impair the contractual rights of the Franchising Authority or the Company under this Agreement.

10.20 No Third-Party Beneficiaries. Nothing in this Agreement, or any prior agreement, is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

IN WITNESS WHEREOF, the party of the first part, by its Mayor, thereunto duly authorized by the City Council of said Franchising Authority, has caused the name of said Franchising Authority to be hereunto signed and the corporate seal of said Franchising Authority to be hereunto affixed, and the Company, the party of the second part, by its officers thereunto duly authorized, has caused its name to be hereunto signed and its seal to be hereunto affixed as of the date and year first above written.

City of Madison, Alabama

By: _____

Name: Paul Finley

Title: Mayor

(Seal)

Attest: _____

Date: _____

Knology of Huntsville, Inc.

By: _____

Name:

Title:

Attest: _____

Date: _____

APPENDIX A DEFINED TERMS

For purposes of the Agreement to which this Appendix A is appended, the following terms, phrases, words, and their derivations shall have the meanings set forth herein, unless the context clearly indicates that another meaning is intended.

“Agreement” means the Agreement to which this Appendix A is appended, together with all Appendices attached thereto and all amendments or modifications thereto.

“Basic Service” means any service tier that includes the retransmission of local television broadcast Signals and any equipment or installation used in connection with Basic Service.

“Cable Act” means Title VI of the Communications Act of 1934 as amended, 47 U.S.C. § 521, *et seq.*

“Cable Service” means the one-way transmission to Subscribers of Video Programming or other programming service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service. “Cable Service” does not include any Video Programming provided by a commercial mobile service provider as defined in 47 U.S.C. §332(d).

“Cable Service Provider” or **“CSP”** means any person or group of persons (A) who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

“Cable System” means a facility, consisting of a set of closed transmission paths and associated Signal generation, reception, and control equipment, which is designed to provide Cable Service, which includes Video Programming and which is provided to multiple Subscribers within a community, but “Cable System” does not include:

(A) a facility that serves only to retransmit the television Signals of one (1) or more television broadcast stations.

(B) a facility that serves Subscribers without using any public right-of-way as defined herein.

(C) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§201–276, except that such facility shall be considered a Cable System, other than for purposes of 47 U.S.C. § 541(c), to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(D) an open video system that complies with 47 U.S.C. § 573; or

(E) any facilities of any electric utility used solely for operating its electric utility system.

“**Channel**” means a “cable channel” or “channel” as defined in 47 U.S.C. § 522(4).

“**Company**” means Knology of Huntsville, Inc., a corporation validly existing under the laws of the State of Delaware, or lawful successor, transferee, designee, or assignee thereof.

“**FCC**” means the Federal Communications Commission, its designee, or any successor thereto.

“**Franchise Area**” means the incorporated areas of the City of Madison, Alabama, including any areas annexed by the Franchising Authority during the term of the Franchise.

“**Franchising Authority**” means the City of Madison, Alabama, a municipal corporation, or lawful successor, transferee, designee, or assignee thereof.

“**Gross Revenues**” means:

(A) all revenues received from Subscribers in the Franchise Area for providing Cable or Video Services, and all revenues received from nonsubscribers in the Franchise Area for advertising services and as commissions from home shopping services, as allocated pursuant to subdivision (B); provided, that the advertising or home shopping services are disseminated through Cable or Video Services. Gross Revenues shall be determined according to Generally Accepted Accounting Principles (“GAAP”). “Gross Revenues” shall not include any:

- (i) tax, surcharge, or governmental fee, including franchise fees.
- (ii) revenue not actually received, even if billed, such as bad debt.
- (iii) revenue received by any affiliate or any other person in exchange for supplying goods or services to the service provider.
- (iv) amounts attributable to refunds, rebates, or discounts.
- (v) revenue from services provided over the Cable System or Video Service system that are associated with or classified as non-Cable or non-Video Services under federal law, including but not limited to revenues received from providing telecommunications services, information services other than Cable or Video Services, Internet access services, directory or Internet advertising services, including but not limited to yellow pages, white pages, banner, and electronic publishing advertising. Where the sale of any such non-Cable or non-Video Service is bundled with the sale of any Cable or Video Service or Services and sold for a single non-itemized price, the term “Gross Revenues” shall include only those revenues that are attributable to Cable or Video Services based on the provider’s books and records.

(vi) revenue attributable to financial charges, such as returned check fees, late fees or interest.

(vii) revenue from the sale or rental of property, except for such property the consumer is required to buy or rent exclusively from the service provider.

(viii) revenues from providing or maintaining an inside wiring plan.

(ix) revenue from sales for resale with respect to which the purchaser is required to pay a franchise fee, and the purchaser certifies in writing that it will resell the service and pay a franchise fee with respect thereto; and

(x) amounts attributable to a reimbursement of costs, including but not limited to the reimbursements by programmers of marketing costs incurred for the promotion or introduction of Video Programming; and

(B) with regard to Gross Revenues attributable to advertising revenues, or video home shopping services, the amount that is allocable the Franchise Area is equal to the total amount of the service provider's revenue received from the advertising and home shopping services multiplied by the ratio of the number of the provider's Subscribers located in the Franchise Area to the total number of the provider's Subscribers. The ratio shall be based on the number of the provider's Subscribers as of January 1 of the preceding year or more current Subscriber count at the provider's discretion, except that, in the first year in which services are provided, the ratio shall be computed as of the earliest practical date.

“Person” means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit, but shall not mean the Franchising Authority.

“Signal” means any transmission of radio frequency energy or of optical information.

“Streets” means the surface of, and the space above and below, any and all streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks, bulkheads, wharves, piers, public grounds, and public places or waters within and belonging to the Franchising Authority and any other property within the Franchise Area to the extent to which there exist public easements or public rights-of-way.

“Subscriber” means any Person lawfully receiving Video Service from a Video Service Provider or Cable Service from a Cable Service Provider.

“Video Programming” means programming provided by or generally considered comparable to programming provided by a television broadcast station, as set forth in 47 U.S.C. § 522(20).

“Video Service” means the provision of Video Programming through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology,

including Internet protocol technology. This definition does not include any Video Programming provided by a commercial mobile service provider as defined in 47 U.S.C. § 332(d) or Video Programming provided as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

“Video Service Provider” or **“VSP”** means an entity providing Video Service as defined herein but does not include a Cable Service Provider.

APPENDIX B
CUSTOMER SERVICE STANDARDS

Code of Federal Regulations

Title 47, Volume 4, Parts 70 to 79

Revised as of October 1, 1998

From the U.S. Government Printing Office via GPO Access

47 C.F.R. § 76.309

Page 561–63

TITLE 47—TELECOMMUNICATION
CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION
PART 76—CABLE TELEVISION SERVICE
Subpart H—General Operating Requirements

§ 76.309 Customer service obligations.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section.

(2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements.

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability—

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety-five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between cable operators and cable subscribers—

(i) Notifications to subscribers—

(A) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

- (1) Products and services offered.
- (2) Prices and options for programming services and conditions of subscription to programming and other services.
- (3) Installation and service maintenance policies.
- (4) Instructions on how to use the cable service.
- (5) Channel positions programming carried on the system; and,
- (6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(B) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers for a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by paragraph (c)(3)(i)(A) of this section. Notwithstanding any other provision of Part 76, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

(ii) Billing—

(A) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(B) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(iii) Refunds—Refund checks will be issued promptly, but no later than either—

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(iv) Credits—Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions—

(i) Normal business hours—The term “normal business hours” means those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include some evening hours at least one night per week and/or some weekend hours.

(ii) Normal operating conditions—The term “normal operating conditions” means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) Service interruption—The term “service interruption” means the loss of picture or sound on one or more cable channels.

[58 FR 21109, Apr. 19, 1993, as amended at 61 FR 18977, Apr. 30, 1996]

ORDINANCE NO. 2023-220

**AN ORDINANCE FOR THE VACATION OF UTILITY AND DRAINAGE EASEMENT
LOCATED WITHIN 120 LAKE CREST DRIVE, LOT 29 OF SILVER CREEK SUBDIVISION
PHASE V**

BE IT HEREBY FOUND AND ORDAINED by the City Council of the City of Madison, Alabama, as follows:

SECTION 1. That an application has been presented to the Planning & Economic Development Department of the City of Madison on behalf of Coppens Family Living Trust and Trustees Chris Joseph Coppens and Jody Lynn Coppens, requesting the vacation of utility and drainage easement located within 120 Lake Crest Drive, Lot 29 of Silver Creek Subdivision Phase V and further described as follows:

STATE OF ALABAMA
COUNTY OF MADISON

EASEMENT TO BE VACATED

ALL THAT PART OF LOT 29 OF SILVER CREEK PHASE V, MADISON ALABAMA, AS RECORDED IN PLAT BOOK 27, PAGE 60, A RESUBDIVISION OF TRACT 6A AND A PORTION OF TRACT 4 OF A RESUBIDIVISION OF LOT 1, OF WHITE ESTATES SUBDIVISION, SECOND ADDITION, AS RECORDED IN PLAT BOOK 18, PAGE 71, BOTH IN THE OFFICE OF JUDGE OF PROBATE FOR MADISON COUNTY, ALABAMA. ALL IN SECTION 33, TOWNSHIP 3 SOUTH, RANGE 2 WEST, OF THE HUNTSVILLE MERIDIAN, MORE PARTICULARLY DESCRIBED AS BEGINNING AT POINT THAT IS SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 15.00 FEET AND NORTH 89 DEGREES 48 MINUTES 09 SECONDS EAST 10.00 FEET FROM THE NORTHWEST CORNER OF SAID LOT 29

THENCE FROM THE TRUE POINT OF BEGINNING NORTH 89 DEGREES 48 MINUTES 09 SECONDS EAST 124.35 FEET TO A POINT; THENCE SOUTH 00 DEGREES 11 MINUTES 51 SECONDS EAST 5.00 FEET TO A POINT; THENCE SOUTH 89 DEGREES 48 MINUTES 09 SECONDS WEST 124.37 FEET TO A POINT; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 621.8 SQUARE FEET

SECTION 2. That the easement requested for vacation is not used by the City, and it is no longer needed for public or municipal purposes.

SECTION 3. Pursuant to the findings in this Ordinance, the Mayor of the City of Madison, Alabama, is hereby authorized, requested, and directed to execute a quitclaim deed vacating the easement.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Madison, Alabama, that, in accordance with the foregoing, the Mayor of the City of Madison, Alabama, is hereby authorized and directed to execute a quitclaim deed vacating the above-described utility and drainage easement in favor of **Coppens Family Living Trust and Trustees Chris Joseph Coppens**

and Jody Lynn Coppens, and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same.

READ, PASSED, AND ADOPTED this ____ day of July 2023.

Ranae Bartlett, Council President
City of Madison, Alabama

ATTEST:

Lisa Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this _____ day of July 2023.

Paul Finley, Mayor
City of Madison, Alabama

This instrument prepared by: Brian Kilgore, City Attorney, City of Madison, 100 Hughes Road, Madison, Alabama 35758

STATE OF ALABAMA	§	<u>QUITCLAIM DEED</u>
	§	<u>(VACATION OF EASEMENT)</u>
COUNTY OF MADISON	§	<i>No title search requested and none prepared.</i>

KNOW ALL MEN BY THESE PRESENTS THAT, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, in hand paid to the undersigned, the receipt of which is hereby acknowledged, the **City of Madison, Alabama, a municipal corporation** (hereinafter referred to as “Grantor”), hereby extinguishes any and all interest that it has in the portion of the utility and drainage easement described below and does by these presents release, remise, quitclaim, and convey unto **Coppens Family Living Trust and Trustees Chris Joseph Coppens and Jody Lynn Coppens**, (hereinafter referred to as “Grantee”) any and all interest Grantor possesses which was created in and by the following described utility and drainage easement situated in Madison, Madison County, Alabama, to-wit:

STATE OF ALABAMA
 COUNTY OF MADISON

EASEMENT TO BE VACATED

ALL THAT PART OF LOT 29 OF SILVER CREEK PHASE V, MADISON ALABAMA, AS RECORDED IN PLAT BOOK 27, PAGE 60, A RESUBDIVISION OF TRACT 6A AND A PORTION OF TRACT 4 OF A RESUBIDIVISION OF LOT 1, OF WHITE ESTATES SUBDIVISION, SECOND ADDITION, AS RECORDED IN PLAT BOOK 18, PAGE 71, BOTH IN THE OFFICE OF JUDGE OF PROBATE FOR MADISON COUNTY, ALABAMA. ALL IN SECTION 33, TOWNSHIP 3 SOUTH, RANGE 2 WEST, OF THE HUNTSVILLE MERIDIAN, MORE PARTICULARLY DESCRIBED AS BEGINNING AT POINT THAT IS SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 15.00 FEET AND NORTH 89 DEGREES 48 MINUTES 09 SECONDS EAST 10.00 FEET FROM THE NORTHWEST CORNER OF SAID LOT 29

THENCE FROM THE TRUE POINT OF BEGINNING NORTH 89 DEGREES 48 MINUTES 09 SECONDS EAST 124.35 FEET TO A POINT; THENCE SOUTH 00 DEGREES 11 MINUTES 51 SECONDS EAST 5.00 FEET TO A POINT; THENCE SOUTH 89 DEGREES 48 MINUTES 09 SECONDS WEST 124.37 FEET TO A POINT; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 621.8 SQUARE FEET.

TO HAVE AND TO HOLD to said Grantee, its heirs, successors, and assigns forever.

IN WITNESS WHEREOF, the City of Madison, Alabama, a municipal corporation, has hereunto set its hand and seal this ____ day of July, 2023.

City of Madison, Alabama,
 a municipal corporation

Attest:

*Quitclaim Deed
 120 Lake Crest Drive, U&D VOE
 Page 1 of 2*

By: _____
Paul Finley, Mayor
City of Madison, Alabama

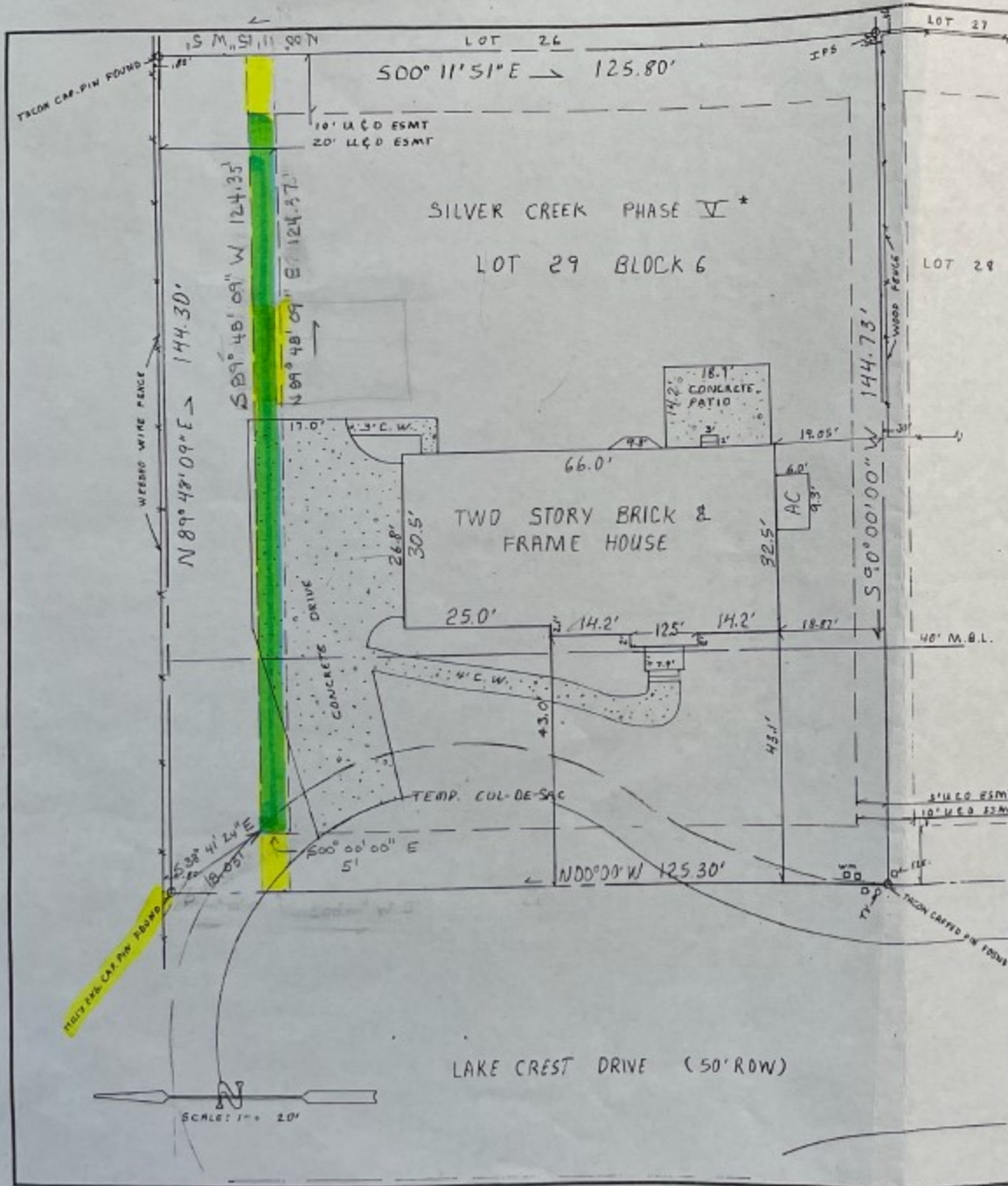
Lisa Thomas
City Clerk-Treasurer

STATE OF ALABAMA §
 §
COUNTY OF MADISON §

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Paul Finley, whose name as Mayor of the City of Madison, Alabama, and Lisa Thomas, whose name as City Clerk-Treasurer of the City of Madison, Alabama, are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they, in their respective capacities as Mayor of the City of Madison and City Clerk-Treasurer of the City of Madison, executed the same voluntarily for and as the act of the City of Madison, Alabama, a municipal corporation, on the day the same bears date.

Given under my hand this the _____ day of June 2023.

Notary Public



STATE OF ALABAMA
MADISON COUNTY

I, TERRY S. TACON, A REGISTERED LAND SURVEYOR WITH THE FIRM OF TACON LAND SURVEYING CO., LACEY'S SPRING, ALABAMA, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT MAP OR PLAT OF LOT 29, BLOCK 6, ACCORDING TO THE MAP OF SURVEY OF SILVER CREEK PHASE V* MADISON COUNTY, ALABAMA, AS RECORDED IN PLAT BOOK 27 PAGE 60, IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA; THAT THE BUILDINGS NOW ERECTED ON SAID LOT ARE WITHIN THE BOUNDARIES OF SAME; THAT THERE ARE NO ENCROACHMENTS BY BUILDINGS ON ADJOINING PROPERTY; THAT THERE ARE NO RIGHTS-OF-WAY, EASEMENTS OR JOINT DRIVEWAYS OVER OR ACROSS SAID LAND VISIBLE ON THE SURFACE, EXCEPT AS SHOWN; THAT THERE ARE NO ELECTRIC OR TELEPHONE WIRES (EXCLUDING WIRES WHICH SERVE THE PREMISES ONLY) OR STRUCTURES OR SUPPORTS THEREFOR, INCLUDING POLES, ANCHORS, AND GUY WIRES, ON OR OVER SAID PREMISES, EXCEPT AS SHOWN; THAT THE SAID LOT LIES WITHIN THE CORPORATE LIMITS OF THE CITY OF MADISON, ALABAMA; THAT THE CORRECT STREET ADDRESS IS 120 LAKE CREST DRIVE MADISON, ALABAMA.

I CERTIFY THAT I HAVE CONSULTED THE FIRM FLOOD ZONE MAP PREPARED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, IN COOPERATION WITH THE FEDERAL INSURANCE ADMINISTRATION, COMMUNITY PANEL NO. 010308-0001 DATED 12-15-78 AND FOUND THAT THE ABOVE DESCRIBED PROPERTY IS NOT LOCATED IN FLOOD HAZARD ZONE A (100 YEAR FLOOD.) THIS DETERMINATION HAS NOT BEEN VERIFIED WITH FIELD SURVEY DATA, BUT FROM MAP OVERLAYS ONLY. LOCATED IN FLOOD ZONE C.

ACCORDING TO MY SURVEY THIS THE 15TH DAY OF JUNE 19 94
*A RESUBDIVISION OF TRACT 6A AND A PORTION OF TRACT 4 OF A RESUBDIVISION OF LOT 1 OF WHITE ESTATES SUBDIVISION SECOND ADDITION

Terry S. Tacon
TERRY S. TACON, ALA. REG. NO. 13653

CERTIFICATION:
I HEREBY CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS.
1" in 8,500' closure

Terry S. Tacon
TERRY S. TACON AL. REG. #13653

FIELD SURVEY DATE 6-14-94
NOTES:
1. BEARING OR ANGLES SHOWN ARE IN REFERENCE TO SAID PLAT.
2. HOUSE TIES ARE NOT SHOWN FOR RETRACEMENT OF BOUNDARY LINES.
3. NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHT OF WAYS, AND OR OWNERSHIP WERE FURNISHED THIS SURVEYOR EXCEPT AS SHOWN



MORTGAGE SURVEY RE: COPPENS

- LEGEND
- Water Meter
 - Under Grd. Elec.
 - P. Overhead Power
 - P.P. Power Pole
 - ← Guide Wire
 - Ele. Box
 - ⊕ Fire Hydrant
 - Iron Pin
 - Tel. Connection
 - Concrete Mon.
 - T.V. Connection
 - A.B. Reference Brg.
 - I.R.S. Tacon Capped
 - 1/2" Iron Pin Set

TACON LAND SURVEYING CO., INC.
605 HIGHWAY 231 LACEY'S SPRING, AL. 35754

SPOT
SILVER CREEK PHASE V*

SCALE: 1" = 20'	APPROVED BY:	DRAWN BY: KAB
DATE: 3-31-94		REVISED: 6-14-94
LOT 29 BLOCK 6		DRAWING NUMBER: 94-232 94-424

ORDINANCE NO. 2023-221

**AN ORDINANCE FOR THE VACATION OF UTILITY AND DRAINAGE EASEMENT
LOCATED WITHIN LOTS 26-38 OF THE HEIGHTS AT TOWN MADISON PHASE 5**

BE IT HEREBY FOUND AND ORDAINED by the City Council of the City of Madison, Alabama, as follows:

SECTION 1. That an application has been presented to the Planning & Economic Development Department of the City of Madison on behalf of SMB Land, LLC requesting the vacation of utility and drainage easement located within Lots 26-38 of The Heights at Town Madison Phase 5:

STATE OF ALABAMA
COUNTY OF MADISON

EASEMENT No. 1 TO BE VACATED

A PORTION OF THAT 20' UTILITY AND DRAINAGE EASEMENT AS SHOWN ON THE FINAL PLAT OF THE HEIGHTS AT TOWN MADISON PHASE 5 RECORDED IN PLAT BOOK 2022, PAGE 424, PROBATE OFFICE, MADISON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF LOT 26 OF SAID PLAT BEING ON THE SOUTHERN RIGHT-OF-WAY OF TOWN MADISON BOULEVARD; THENCE LEAVING SAID SOUTHERN RIGHT-OF-WAY S02°40'21"E 12.00 FEET TO THE POINT OF BEGINNING; THENCE N87°19'39"E 418.49 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 9.00 FEET, AN ARC LENGTH OF 3.06 FEET, AND A CHORD BEARING AND DISTANCE OF S12°24'30"E 3.04 FEET; THENCE S02°40'21"E 5.00 FEET; THENCE S87°19'39"W 419.00 FEET; THENCE N02°40'21"W 8.00 FEET TO THE POINT OF BEGINNING.

EASEMENT No. 2 TO BE VACATED

A PORTION OF THAT 20' UTILITY AND DRAINAGE EASEMENT AS SHOWN ON THE FINAL PLAT OF THE HEIGHTS AT TOWN MADISON PHASE 5 RECORDED IN PLAT BOOK 2022, PAGE 424, PROBATE OFFICE, MADISON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF LOT 37 OF SAID PLAT BEING ON THE SOUTHERN RIGHT-OF-WAY OF TOWN MADISON BOULEVARD; THENCE LEAVING SAID SOUTHERN RIGHT-OF-WAY S02°40'21"E 12.00 FEET TO THE POINT OF BEGINNING; THENCE N87°19'39"E 58.49 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 9.00 FEET, AN ARC LENGTH OF 3.06 FEET, AND A CHORD BEARING AND DISTANCE OF S12°24'30"E 3.04 FEET; THENCE S02°40'21"E 5.00 FEET; THENCE S87°19'39"W 233.00 FEET; THENCE N02°40'21"W 5.00 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 9.00 FEET, AN ARC LENGTH OF 3.06 FEET, AND A CHORD BEARING AND DISTANCE OF N07°03'47"E 3.04 FEET; THENCE N87°19'39"E 173.49 FEET TO THE POINT OF BEGINNING.

SECTION 2. That the easement requested for vacation is not used by the City, and it is no longer needed for public or municipal purposes.

SECTION 3. Pursuant to the findings in this Ordinance, the Mayor of the City of Madison, Alabama, is hereby authorized, requested, and directed to execute a quitclaim deed vacating the easement.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Madison, Alabama, that, in accordance with the foregoing, the Mayor of the City of Madison, Alabama, is hereby authorized and directed to execute a quitclaim deed vacating the above-described utility and drainage easement in favor of **SMB Land, LLC**, and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same.

READ, PASSED, AND ADOPTED this ____ day of July 2023.

Ranae Bartlett, Council President
City of Madison, Alabama

ATTEST:

Lisa Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this _____ day of July 2023.

Paul Finley, Mayor
City of Madison, Alabama

EXHIBIT NOTES:

1. Exhibit North and Basis for Exhibit: *Final Plat of The Heights at Town Madison Phase 5* as recorded in Plat Book 2022, Page 424, Probate Office, Madison County, Alabama.
2. Flood Zone information for this tract was not researched this exhibit.
3. This exhibit was made without the benefit of an attorney's title opinion of title commitment. The surveyor's search of public records was limited to those matters affecting the boundaries of the subject property only. There may be matters of record, such as conveyances, easements, rights-of-way, etc., that affect the title to the subject property which are not known to the surveyor and not disclosed by this exhibit.
4. This drawing becomes void if any alterations or changes are made by others.
5. This document is not valid unless stamped with surveyor's seal.
6. This drawing may not be altered or added to without permission from Barrett-Simpson Inc.

DESCRIPTIONS

Lots of Vacated Easement

Lots 26-38 as shown on the Final Plat of The Heights at Town Madison Phase 5 recorded in Plat Book 2022, Page 424, Probate Office, Madison County, Alabama.


Easement No. 1 (area to be vacated)

A portion of that 20' utility and drainage easement as shown on the Final Plat of The Heights at Town Madison Phase 5 recorded in Plat Book 2022, Page 424, Probate Office, Madison County, Alabama and being more particularly described as follows: Commence at the northwest corner of Lot 26 of said plat being on the southern right-of-way of Town Madison Boulevard; thence leaving said southern right-of-way S02°40'21"E 10.00 feet to the point of beginning; thence N87°19'39"E 75.37 feet; thence S02°40'21"E 2.00 feet; thence N87°19'39"E 5.00 feet; thence N02°40'21"W 2.00 feet; thence N87°19'39"E 337.11 feet; thence along a non-tangent curve to the right having a radius of 9.00 feet, a arc length of 5.30 feet, and a chord bearing and distance of S19°32'50"E 5.22 feet; thence S02°40'21"E 5.00 feet; thence S87°19'39"W 419.00 feet to the point of beginning.

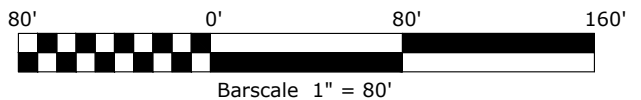
Easement No. 2 (area to be vacated)

A portion of that 20' utility and drainage easement as shown on the Final Plat of The Heights at Town Madison Phase 5 recorded in Plat Book 2022, Page 424, Probate Office, Madison County, Alabama and being more particularly described as follows: Commence at the northeast corner of Lot 37 of said plat being on the southern right-of-way of Town Madison Boulevard; thence leaving said southern right-of-way S02°40'21"E 10.00 feet to the point of beginning; thence N87°19'39"E 57.48 feet; thence along a non-tangent curve to the right having a radius of 9.00 feet, a arc length of 5.30 feet, and a chord bearing and distance of S19°32'50"E 5.22 feet; thence S02°40'21"E 5.00 feet; thence S87°19'39"W 233.00 feet; thence N02°40'21"W 5.00 feet; thence along a tangent curve to the right having a radius of 9.00 feet, a arc length of 5.30 feet, and a chord bearing and distance of N14°12'07"E 5.22 feet; thence N87°19'39"E 172.48 feet to the point of beginning.

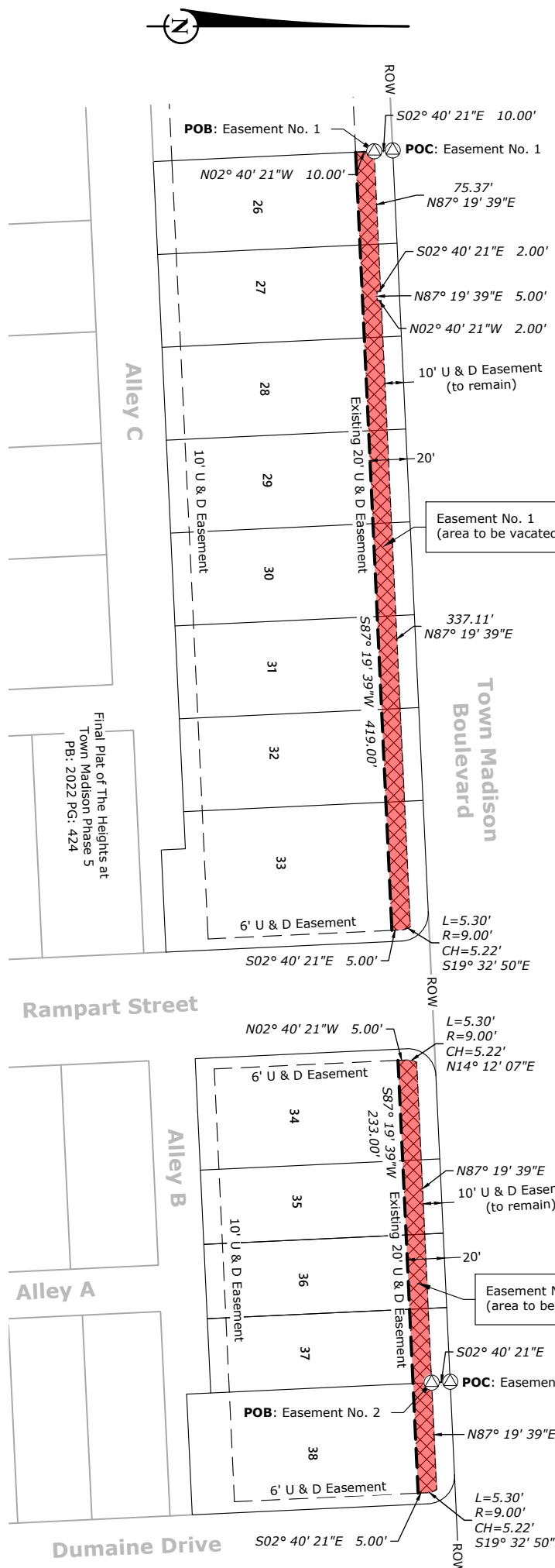
LEGEND

-  Calculated Point
- ROW Right-of-Way
- PB: Plat Book
- PG: Page
- U & D: Utility and Drainage

THIS IS NOT A SURVEY. This drawing is for information purposes only. Information shown is based on previous surveys & plats of record. The purpose of this plat is to show the location of the utility and drainage easement to be vacated.



*Revised: Adjusted area of Easement No. 1 - APD (06/05/23)



I, Jonathan A. Ham, hereby certify that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information, and belief.

Jonathan A. Ham, PLS
Alabama License No. 34761 Date: 06/05/2023

EASEMENT VACATION EXHIBIT FOR
LOTS 26-38: THE HEIGHTS AT TOWN MADISON PHASE 5
SECTION 22, TOWNSHIP 4 SOUTH, RANGE 2 WEST,
CITY OF MADISON, MADISON COUNTY, ALABAMA



BARRETT-SIMPSON, INC.
Engineers & Land Surveyors
706 12th STREET, PHENIX CITY, AL 36868 (PH 334-297-2423, FAX 334-297-2449) 121 W. BROAD STREET, EUFAULA, AL 36027 (PH 334-687-4257, FAX 334-687-8929) 223 SOUTH 9th STREET, OPELIKA, AL 36801 (PH 334-745-7026, FAX 334-745-4367)

Field Date:	N/A
Field By:	N/A
Draw Date:	05/24/23
Drawn By:	APD
Reviewed By:	JAH
Scale:	1" = 80'
Revised:	06/05/23
Revised:	
Project Number:	19-0036

This instrument prepared by: Brian Kilgore, City Attorney, City of Madison, 100 Hughes Road, Madison, Alabama 35758

STATE OF ALABAMA	§	<u>QUITCLAIM DEED</u>
	§	<u>(VACATION OF EASEMENT)</u>
COUNTY OF MADISON	§	<i>No title search requested and none prepared.</i>

KNOW ALL MEN BY THESE PRESENTS THAT, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, in hand paid to the undersigned, the receipt of which is hereby acknowledged, the **City of Madison, Alabama, a municipal corporation** (hereinafter referred to as “Grantor”), hereby extinguishes any and all interest that it has in the portion of the utility and drainage easement described below and does by these presents release, remise, quitclaim, and convey unto **SMB Land, LLC**, (hereinafter referred to as “Grantee”) any and all interest Grantor possesses which was created in and by the following described utility and drainage easement situated in Madison, Madison County, Alabama, to-wit:

STATE OF ALABAMA
 COUNTY OF MADISON

EASEMENT No. 1 TO BE VACATED

A PORTION OF THAT 20’ UTILITY AND DRAINAGE EASEMENT AS SHOWN ON THE FINAL PLAT OF THE HEIGHTS AT TOWN MADISON PHASE 5 RECORDED IN PLAT BOOK 2022, PAGE 424, PROBATE OFFICE, MADISON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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EASEMENT No. 2 TO BE VACATED

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COMMENCE AT THE NORTHEAST CORNER OF LOT 37 OF SAID PLAT BEING ON THE SOUTHERN RIGHT-OF-WAY OF TOWN MADISON BOULEVARD; THENCE LEAVING SAID SOUTHERN RIGHT-OF-WAY S02°40’21”E 12.00 FEET TO THE POINT OF BEGINNING; THENCE N87°19’39”E 58.49 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 9.00 FEET, AN ARC LENGTH OF 3.06 FEET, AND A CHORD BEARING AND DISTANCE OF S12°24’30”E 3.04 FEET; THENCE S02°40’21”E 5.00 FEET; THENCE S87°19’39”W 233.00 FEET; THENCE N02°40’21”W 5.00 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 9.00 FEET, AN ARC LENGTH OF 3.06 FEET, AND A CHORD BEARING AND DISTANCE OF N07°03’47”E 3.04 FEET; THENCE N87°19’39”E 173.49 FEET TO THE POINT OF BEGINNING.

*Quitclaim Deed
 The Heights at Town Madison Phase 5, U&D VOE
 Page 1 of 2*

TO HAVE AND TO HOLD to said Grantee, its heirs, successors, and assigns forever.

IN WITNESS WHEREOF, the City of Madison, Alabama, a municipal corporation, has hereunto set its hand and seal this ____ day of July, 2023.

City of Madison, Alabama,
a municipal corporation

Attest:

By: _____
Paul Finley, Mayor
City of Madison, Alabama

Lisa Thomas
City Clerk-Treasurer

STATE OF ALABAMA §
§
COUNTY OF MADISON §

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Paul Finley, whose name as Mayor of the City of Madison, Alabama, and Lisa Thomas, whose name as City Clerk-Treasurer of the City of Madison, Alabama, are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they, in their respective capacities as Mayor of the City of Madison and City Clerk-Treasurer of the City of Madison, executed the same voluntarily for and as the act of the City of Madison, Alabama, a municipal corporation, on the day the same bears date.

Given under my hand this the ____ day of July 2023.

Notary Public

RESOLUTION NO. 2023-211-R

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A
PROFESSIONAL SERVICES AGREEMENT WITH OGLE TREE SERVICE,
LLC**

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that the Mayor is authorized to execute a Professional Services Agreement with Ogle Tree Service for professional tree and limb removal services on the Bradford Creek Greenway, said Agreement to be substantially similar in purpose, intent, and composition to that certain document attached hereto and identified as "Agreement for Professional Services" and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same; and

BE IT FURTHER RESOLVED that, except for the extension or cancellation of the resulting agreement, the Mayor or his designee shall be hereby authorized for the entire term of the agreement to execute any and all documentation necessary to enforce and comply with the terms thereof, subject to the budgetary restrictions set forth by the Council in its adopted budget for the then-current fiscal year; and

BE IT FURTHER RESOLVED that, the Agreement for Professional Services shall be effective August 1, 2023; and

BE IT FURTHER RESOLVED that, upon request and notification from the appropriate department that the terms of the agreement preceding payment have been satisfied, the Finance Director is hereby authorized to forward payment to Ogle Tree Service in a total amount not to exceed eighteen thousand dollars (\$18,000.00.00) to be paid from the Recreation Department's budget.

READ, PASSED, AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 10th day of July 2023.

Ranae Bartlett, City Council President
City of Madison, Alabama

ATTEST:

Lisa D. Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this ___ day of July 2023.

Paul Finley, Mayor
City of Madison, Alabama

CONTRACTOR AGREEMENT

This AGREEMENT is effective the 1st day of August 2023, by and between the City of Madison, Alabama, a municipal corporation, hereinafter referred to as “Owner”, and **Ogle Tree Services, LLC**, hereinafter referred to as the “Contractor”.

WITNESSETH:

1. **Scope of Work:** For and in consideration of the payment by Owner as hereinafter provided, Contractor does hereby contract and agree to perform tree and limb removal services (the “Work”). Pursuant to the provisions of this Agreement, Contractor will provide the following services to City: cut and remove hazardous trees and/or limbs, including approximately thirty-seven trees, along the Bradford Creek Greenway.

2. **Compensation:** For the above-described work as and when satisfactorily performed, Owner agrees to pay Contractor by monthly progress payments for the total sum not to exceed **eighteen thousand dollars (\$18,000)**. Contractor is solely responsible for submission of a detailed invoices outlining the work performed and the payment due from City, terms net thirty (30) days.

3. **Additional Services:** Contractor shall make all alterations and changes, and perform all extra work or omit any work, which the Owner may require in writing, and at a reasonable addition to or deduction from the contract price set forth herein. **NO EXTRA WORK, ALTERATIONS OR CHANGES SHALL BE MADE, HOWEVER, EXCEPT UPON WRITTEN ORDER FROM OWNER, AND OWNER SHALL NOT BE HELD LIABLE TO CONTRACTOR FOR ANY EXTRA WORK, ALTERATIONS OR CHANGES FURNISHED WITHOUT SUCH WRITTEN ORDER. NO OFFICER, EMPLOYEE, OR AGENT OF OWNER HAS ANY AUTHORITY TO DIRECT ANY EXTRA WORK ALTERATIONS OR CHANGES BY ORAL ORDER.**

4. **Term of Agreement:** This Agreement shall come into effect on August 1, 2023 and after the authorized representatives of each party finally execute and affix their respective signatures hereto in their duly authorized capacities.

5. **Time of the Essence:** Time is of the essence in Contractor’s performance of its work, and Contractor shall perform according to the schedule furnished by Owner. The schedule can be updated or revised by the Owner, and the Contractor shall perform accordingly. Should Contractor be delayed in its final completion through no fault of its own, its subcontractors or vendors, it will only be entitled to a commensurate extension of time in the schedule, and Contractor hereby waives any monetary claim for delay, disruption, inefficiency, impact, or suspension.

6. **Subcontractors:** Contractor shall promptly make payments to all persons supplying the Contractor with labor, tools, supplies, and equipment used or to be used in the prosecution of the work or in connection therewith. Any payments not so made by the Contractor when earned or due may be made by the Owner and the amounts thereof deducted from any

moneys at any time earned or due the Contractor under this agreement. Furthermore, Contractor shall hold and save the Owner harmless from any and all claims, actions, suits, or liens by any such persons. Contractor hereby waives and releases any lien or right of lien it may assert against the improved property, the Owner or any contract funds as provided by law or in equity.

7. Work Conditions: All construction and work performed hereunder by Contractor and its employees, if any, shall be in strict accordance with the plans, specifications and directions furnished by the Owner. Contractor shall, at Contractor's expense, comply with the Owner's clean-up, operational, and other facility procedures and shall at all times keep the facility and premises free from debris and unsafe conditions resulting from the Contractor's Work. Contractor shall give adequate notices to any and all authorities pertaining to the Contractor's Work and secure and pay for all permits, fees, licenses, assessments, inspections, and taxes necessary to complete the Contractor's Work.

8. Owner Suspension of Work: Owner may expressly order the Contractor in writing to suspend, delay, interrupt, or terminate all or any part of the Contractor's work for such period of time as may be determined to be appropriate for the convenience of the Owner. In such event, Owner shall not be liable for unearned anticipated profit on the Contractor's work not performed as of the termination date, nor shall Owner be liable to the Contractor for any delay, impact, consequential, indirect, or other damages.

9. Compliance with Laws: Contractor promises and agrees that it will be responsible for all workmen employed or engaged by it in the performance of this contract and that it will be responsible for complying with all Federal and State laws and regulations pertaining to the withholding of income taxes, Social Security, and unemployment compensation payments of its employees. Contractor warrants and agrees that it and its employees shall at all times observe and comply with all applicable laws and regulations of the United States and of any state, county, or city having jurisdiction of the place where any work hereunder is being done.

Contractor agrees to fully comply with the Occupational Safety & Health Act of 1970 and successive legislation and any and all regulations issued pursuant thereto. Contractor shall defend, indemnify and hold Owner harmless from any claims or charges of any kind by reason of Contractor failing to fully comply with the Act and its regulations, and agrees to reimburse the Owner for any fines, damages, or expenses of any kind incurred by the Owner by reason of the Contractor's failure to comply. Contractor shall be solely responsible for project safety and is solely responsible for the safety of its own employees.

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, to the extent allowed by Federal law. Contractor hereby represents, warrants and covenants to Owner as follows: Contractor (i) has complied, and shall at all times during the term of this agreement comply, in all respects with all immigration laws, statutes, rules, codes, orders and regulations, including, without limitation, the Immigration Reform and Control Act of 1986, as amended, and the Illegal Immigration Reform

and Immigrant Responsibility Act of 1996, as amended, and any successor statutes thereto, (ii) has properly maintained, and shall at all times during the term of this agreement properly maintain, all records required by the United States Citizenship and Immigration Services (the "USCIS"), including, without limitation, the completion and maintenance of the Form I-9 for each of Contractor's employees, and (iii) has responded, and shall at all times during the term of this agreement respond, in a timely fashion to any inspection requests related to such I-9 Forms.

10. Independent Contractor: It is expressly agreed by and between the parties hereto that the Contractor is an independent contractor and said Contractor shall not be deemed or construed to be an employee or agent of Owner, or any of Owner's elected officials, principals, employees, members, managers, partners, or affiliates.

11. Insurance & Indemnification: Contractor will furnish Owner a Certificate of Insurance naming Owner as an additional insured, as well as evidence of required general contractor licensing, all acceptable to Owner, at the time of execution of this Agreement. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless Owner (including its affiliates, parents, and subsidiaries) and all of its agents, officers, elected officials, members, managers, and employees from and against all claims, damages, losses, and expenses, including but not limited to, court costs, and reasonable attorney's fees, arising out of, related to or resulting from the performance of the Contractor's work or the Contractors' failure to perform its obligations under this Agreement, regardless of whether such claims, damages, losses, and expenses are caused by, or are alleged to be caused by, in whole or in part, the acts, omissions, or negligence of a party indemnified hereunder.

12. Termination: If the Contractor refuses or fails to supply enough properly skilled workers, competent supervision, or proper materials, to maintain the schedule of work, or to make prompt payment to its workers, subcontractors, or suppliers, or if the Contractor disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, or otherwise is responsible for a material breach of this Agreement, and thereafter fails within three (3) working days after receipt of written notice from Owner to commence and continue satisfactory correction of such default with diligence and promptness, then the Owner, without prejudice to any others rights or remedies, shall have the right to terminate Contractor's employment under this Agreement and withhold payment of any monies due the Contractor pending corrective or curative action to the extent required by and to the satisfaction of the Owner. All of the costs incurred by the Owner in completing or correcting the Contractor's work, including overhead, profit, court costs and reasonable attorney's fees, shall be deducted from any monies due or to become due the Contractor from Owner and shall otherwise be reimbursed by the Contractor and its surety.

13. Governing Law & Dispute Resolution: The laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this Agreement. All claims, disputes, and any other matters in question between Owner and the Contractor arising out of or relating to this Agreement, at the sole election of the Owner, shall be decided either by a court located in Madison County, Alabama, or by binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. The location of the arbitration proceeding shall be Madison County, Alabama. Any

award rendered by the arbitrators shall be final, and judgment may be entered thereon in accordance with applicable law in any court having jurisdiction thereof.

14. Open Trade: By signing this contract, Contractor represents and agrees that it is not currently engaged in, nor will it engage in, any boycott of a person or entity based in or doing business with a jurisdiction with which the State of Alabama can enjoy open trade.

15. Entire Agreement: This Agreement represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, either written or oral. There shall be no modification of this Agreement, except in writing, signed by both parties, executed with the same formalities as with original instrument.

16. Severability: If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

17. Waiver: The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

18. No Third-Party Beneficiaries: Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

19. Conflicts: In the event the terms set forth in the body of this Agreement conflict with the terms set forth in any attachment hereto, the terms set forth in the body of this Agreement shall prevail.

20. Headings: The headings of each section are inserted for reference purposes only. Any conflict between a descriptive heading and the content of the section shall be resolved in favor of the language contained in the section.

21. Notices:

All notices to the City shall be addressed as follows:

*City of Madison Recreation Department
Attn: Director, Kory Alfred
100 Hughes Road
Madison, Alabama 35758*

With a copy to:

*City of Madison Legal Department
Attn: City Attorney, Brian Kilgore
100 Hughes Road
Madison, Alabama 35758*

All notices to Contractor shall be addressed as follows:
Ogle Tree Service, LLC
17 South Patrick Road
Fayetteville, TN 37334

IN WITNESS WHEREOF, the parties hereto affirm that they have the authority to execute this Agreement on behalf of their respective entities for the entire term and have hereunto set their hands and seals on the day and year respectively noted.

**City of Madison, Alabama,
a municipal corporation**

Attest:

By: _____
Paul Finley, Mayor

Lisa D. Thomas, City Clerk-Treasurer

Date: _____

STATE OF ALABAMA §

§

COUNTY OF MADISON §

I, the undersigned Notary Public, in and for said County, in said State, hereby certify that Paul Finley and Lisa D. Thomas, whose names as Mayor and the City Clerk-Treasurer, respectively, of the City of Madison, Alabama, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of the City of Madison, Alabama, a municipal corporation.

Given under my hand and official seal this ____ day of _____, 2023.

Notary Public

Ogle Tree Service, LLC

By: _____

Its: _____

Date: _____

STATE OF ALABAMA §
§
COUNTY OF MADISON §

I, the undersigned authority, a Notary Public in and for said County in said State, herebycertify that _____, whose name as _____ of Ogle Tree Service LLC, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said entity.

Given under my hand and official seal this ____ day of _____, 2023.

Notary Public



Ogle Tree Service LLC

17 South Patrick Rd. Fayetteville, TN 37334
931-993-4722 | loganogle@yahoo.com

RECIPIENT:

City of Madison

100 Hughes Rd
Madison, AL 35758

SERVICE ADDRESS:

574 Palmer Road
Madison, Alabama 35758

Estimate #1221

Sent on May 22, 2023

Total \$18,000.00

PRODUCT / SERVICE	DESCRIPTION	TOTAL
Tree Removal	-Removing around (37) trees as discussed during walk-through on the tree priority list. -Hauling-Off Debris, Leaving as Habitat, or Chipping Up as discussed depending on requested form of removal. -Able to begin project in one week. Expected duration of project to take 4-5 working days.	\$18,000.00

Total \$18,000.00

This quote is valid for the next 30 days, after which values may be subject to change. We would love to have your business!

RESOLUTION NO. 2023-222-R

**A RESOLUTION AUTHORIZING PROFESSIONAL SERVICES
AGREEMENT WITH BASELINE SPORTS CONSTRUCTION, LLC**

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that the Mayor is authorized and directed to execute a Professional Services Agreement with Baseline Sports Construction, LLC, for installation of LED lighting for the Intergraph Park, said Agreement to be substantially similar in purpose, intent, and composition to that certain document attached hereto and identified as "Professional Services Agreement," and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same; and

BE IT FURTHER RESOLVED that, except for the extension or cancellation of the resulting agreement, the Mayor or his designee shall be hereby authorized for the entire term of the agreement to execute any and all documentation necessary to enforce and comply with the terms thereof, subject to the budgetary restrictions set forth by the Council in its adopted budget for the then-current fiscal year; and

BE IT FURTHER RESOLVED that, upon request and notification from the appropriate department that the terms of the agreement preceding payment have been satisfied, the Finance Director is hereby authorized to forward payment to Baseline Sports Construction, LLC, in the amount(s) and manner set forth in the Agreement authorized by passage of this resolution.

READ, PASSED, AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 10th day of July 2023.

Ranae Bartlett, City Council President
City of Madison, Alabama

ATTEST:

Lisa D. Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this ____ day of July 2023.

Paul Finley, Mayor
City of Madison, Alabama

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT for professional services is made by and between the City of Madison, Alabama, a municipal corporation located at 100 Hughes Road, Madison, Alabama 35758, hereinafter referred to as "City," and Baseline Sports Construction, a Tennessee corporation located at 3600 Henson Road, Knoxville, TN 37921, hereinafter referred to as "Consultant."

WITNESS TO:

WHEREAS, the City of Madison requires the installation of LED lighting for the Intergraph fields (herein "the Project"); and

WHEREAS, the best interests of the City and its residents will be served by retaining a profession with experience designing and installing similar projects; and

WHEREAS, Consultant is an experienced and unique provider of the services required and is capable of providing the same in a professional, timely manner; and

WHEREAS, the City desires to avail itself of Consultant's unique abilities and services and Consultant desires to provide same to City;

NOW, THEREFORE, in consideration of mutual covenants and agreements herein set forth, the parties, intending to be legally bound, hereby agree as follows:

SECTION 1: SCOPE OF WORK

- A. Pursuant to the provisions of this Agreement, Consultant will provide the following services to City: installation of LED lights for the Intergraph fields.
- B. Consultant agrees to comply with all applicable Federal, State, and Local laws and regulations, including, but not limited to, those pertaining to wages and hours of employment. By signing this Agreement, the parties affirm, for the duration hereof, 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 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.

- C. Consultant shall ensure that its work complies with the Americans with Disabilities Act (ADA), the City's ADA Pedestrian Facilities Plan, dated August 29, 2016, as well as the City's ADA Self-Evaluation and Transition Plan, dated August 29, 2016.
- D. Consultant shall thoroughly and proficiently perform all services using reasonable diligence and exercising the best judgment, care, and skill ordinarily used by similar persons providing the same or similar services under the same or similar circumstances.
- E. Consultant shall furnish all supplies, materials, machinery, equipment, and means, except as otherwise expressly specified herein, necessary or proper to carry out the services required by this Agreement.
- F. Consultant shall perform all services in accordance with the provisions of this Agreement and shall be solely responsible for the legality, safety, efficiency, and adequacy of the services performed hereunder.
- G. Throughout the term of this Agreement, Consultant shall provide City reasonable and meaningful access via telephone and e-mail to Consultant's principals for the purpose of fulfilling the contracted-for deliverables.
- H. Any and all information provided to Consultant by City, of the type normally available for the proposed services, which has been prepared by or for others (including, but not limited to, the City, the State of Alabama, and various federal agencies) will be considered "best available information" and thus appropriate and sufficient for the services proposed herein.
- I. By signing this contract, Consultant represents and agrees that it is not currently engaged in, nor will it engage in, any boycott of a person or entity based in or doing business with a jurisdiction with which the State of Alabama can enjoy open trade.

SECTION 2: EXPENSE STRUCTURE; OPTIONAL SERVICES & FEES

- A. The total compensation for services rendered by Consultant pursuant to Section 1.A. shall be an amount not to exceed **one hundred twenty-eight thousand two hundred fifty-three dollars (\$128,253.00)**, payable on a monthly basis as services are rendered and invoiced to City. Consultant is solely responsible for submission of monthly detailed invoices outlining the work performed and the payment due from City, terms net thirty (30) days.
- B. All fees and expenses related to Consultant's performance are included in the total

compensation set forth in Section 2.A., and Consultant shall not be compensated for any other expenses.

- C. All taxes applicable to the payments made to Consultant hereunder shall be the sole responsibility, obligation, and liability of Consultant.
- D. Payment of compensation as set forth in Section 2.A. vests complete and irrevocable ownership in the City of all paid-for deliverables created by Consultant and City shall be perpetually vested with full usage rights of the same.
- E. In the event that Consultant determines that additional services are necessary, Consultant shall notify the City with reasonable promptness and explain the facts and circumstances giving rise to the need. Consultant shall not proceed to provide any additional services until Consultant receives written authorization of City.

SECTION 3: INDEMNIFICATION & INSURANCE

Consultant agrees to hold harmless and indemnify City from and against all injuries, deaths, claims, suits, damages, losses, liabilities, judgments, costs, and expenses resulting from willful malfeasance, bad faith, or gross negligence on the part of Consultant or its individual employees, officials, agents and representatives in the course of Consultant providing services pursuant to the instant Agreement.

To the extent allowed by law, City agrees to hold harmless and indemnify Consultant from and against all injuries, deaths, claims, suits, damages, losses, liabilities, judgments, costs, and expenses resulting from willful malfeasance, bad faith or gross negligence on the part of City or its individual employees, officials, agents and representatives in the course of receiving services from Consultant pursuant to the instant Agreement.

Consultant further agrees to maintain and keep in full force and effect at all times during the term of this Agreement and any extensions thereof the following insurance policies: Commercial General Liability Insurance, including officers, agents, and employees with per-project policy limits of not less than two million dollars (\$2,000,000.00) for each occurrence and in the aggregate for bodily injury and property damage; automobile liability covering owned and rented vehicles operated by Consultant with policy limits of not less than one million dollars (\$1,000,000.00) combined single limit and aggregate for bodily injury and property damage; two million dollars (\$2,000,000.00) Products/Completed Operations Aggregate; one million dollars (\$1,000,000.00) Personal and Advertising Injury limits combined single limit or equivalent; one million dollars (\$1,000,000.00) workers' compensation; and one million dollars (\$1,000,000.00) Umbrella/Excess Liability Insurance. The Consultant shall name the City and its employees, agents, and servants as additional insureds in said policies and shall provide endorsements evidencing such coverage upon City's request. In addition, Consultant shall carry professional liability insurance covering Consultants negligent acts, errors, and omissions in its performance

of professional services with policy limits of not less than one million dollars (\$1,000,000.00) per claim and two million dollars (\$2,000,000.00) in the aggregate per project.

SECTION 4: COMMENCEMENT; TERM

This Agreement shall come into effect when the authorized representatives of each party finally execute and affix their respective signatures hereto in their duly authorized capacities. In the event the signatures are affixed on different dates, the date of the latter signature shall be the date the Agreement comes into effect. This Agreement shall expire upon the City’s acknowledgement of Consultant’s fulfillment of the terms of the Scope of Work contained herein.

SECTION 5: TERMINATION

This Agreement may be terminated by either party, with or without cause, upon the provision of thirty (30) days’ notice to the other party. In the event of termination, Consultant shall be entitled to payment only for services rendered as of the date of termination, and City shall be entitled to receive only that work product created by Consultant as of the date of termination.

SECTION 6: INDEPENDENT CONTRACTOR RELATIONSHIP

It is mutually understood and agreed, and it is the intent of the parties, that an independent contractor relationship be and is hereby established under the terms and conditions of this Agreement. It is further mutually understood and agreed that employees of Consultant are not nor shall be deemed to be employees of City and that employees of City are not nor shall they be deemed to be employees of Consultant.

SECTION 7: EXCUSED PERFORMANCE

In case performance of any terms or provisions hereof shall be delayed or prevented because of compliance with any law, decree or order of any governmental agency or authority, whether the same shall be of Local, State or Federal origin, or because of riots, war, public disturbances, strikes, lockouts, differences with workmen, fires, floods, acts of God or any other reason whatsoever which is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, said party is unable to prevent, the party so suffering may, at its option, suspend, without liability, the performance of its obligations hereunder during the period of such suspension of performance of duties hereunder.

SECTION 8: ASSIGNMENT

Neither Consultant nor City may assign or transfer this Agreement or any part thereof

without the express, written consent of the other party.

SECTION 9: ENTIRE AGREEMENT: WAIVER

This Agreement constitutes the entire Agreement between the parties with respect to the provision of the services outlined herein and there are no other or further written or oral understandings or agreements with respect thereto. No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by duly authorized representatives of Consultant and City. This Agreement supersedes all other agreements between the parties.

SECTION 10: NOTICES

All notices to City shall be addressed to:

*Director
City of Madison Recreations Department
100 Hughes Road
Madison, Alabama 35758*

All notices to Consultant shall be addressed to:

*Steve Clift
Baseline Sports Construction, LLC
3600 Henson Road, Knoxville, TN 37921*

SECTION 11: GOVERNING LAW

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

SECTION 12: MISCELLANEOUS PROVISIONS

- A. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.
- B. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

- C. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.
- D. The headings of each section are inserted for reference purposes only. Any conflict between a descriptive heading and the content of the section shall be resolved in favor of the language contained in the section.

IN WITNESS WHEREOF, the parties hereto affirm that they have the authority to execute this Agreement on behalf of their respective entities for the entire term and have hereunto set their hands and seals on the day and year respectively noted.

**City of Madison, Alabama,
a municipal corporation**

Attest:

By: _____
Paul Finley, Mayor

Lisa Thomas, City Clerk-Treasurer

Date: _____

STATE OF ALABAMA §
 §
COUNTY OF MADISON §

I, the undersigned Notary Public, in and for said County, in said State, hereby certify that Paul Finley and Lisa Thomas, whose names as Mayor and the City Clerk-Treasurer, respectively, of the City of Madison, Alabama, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of the City of Madison, Alabama, a municipal corporation.

Given under my hand and official seal this _____ day of _____, 2023.

Notary Public

Baseline Sports Construction, LLC

By: _____

Its: _____

Date: _____

STATE OF _____ §

§

COUNTY OF _____ §

§

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____ whose name as _____ of Baseline Sports Construction, LLC is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, s/he, as such officer and with full authority, executed the same voluntarily for and as the act of said entity.

Given under my hand this the _____ day of _____, 2023.

Notary Public

BASELINE

SPORTS CONSTRUCTION
865.588.4320
www.baselinellc.com

SCANNED PROPOSAL

CITY OF MADISON, ALABAMA
INTERGRAPH PARK LED LIGHTING INSTALLATION
BID NUMBER: 2023-005-ITB

City of Madison, Alabama
ATTN: Kory Alfred and Alicia Walden
100 Hughes Road, Madison, Alabama 35758

SUBMITTED BY

Steve Clift, Vice President
Baseline Sports Construction,
LLC, 3600 Henson Road, Knoxville, TN 37921
Steve@baselinellc.com, 423-593-8284

AL Contractors License #45737
Unlimited; Expiration date: November 30, 2023



City of Madison, Alabama
Bid Number: 2023-005-ITB
Project Title: Intergraph Park LED Lighting Installation
Issued: May 31, 2023

BID SUBMITTAL FORM

A. BIDDER'S INFORMATION

Legal Name: Baseline Sports Construction, LLC

Business Address: 3600 Henson Road, Knoxville, TN 37921

Business Phone: 865-588-4320 Company's E-mail: info@baselinellc.com

Authorized Representative: Steve Clift

Title: Vice President

Representative Phone: 865-588-4320 (work) 423-593-8284 (cell)

Representative's Email Address(es): Steve@baselinellc.com

B. BIDDER'S LICENSE INFORMATION: See Section 9(a) of Bid Packet.

License Class & Bid Limit: General Contractor, Unlimited

Alabama General Contractor No.: 45737

Alabama General Contractor Specialty: GC specializing in sports construction

Alabama General Contractor License Major Categories:

- (1) BC: Building Construction, MU-S: Concrete Pavement, MU-S: Concrete MU-S: Fencing, MU-S: Paving & Asphalt, MU-S: Striping, REP:Reciprocity
- (2) of Tennessee, SC: Tennis Courts

COPY OF BIDDER'S GENERAL CONTRACTOR LICENSE MUST ACCOMPANY THIS BID SUBMISSION, OR IT WILL BE REJECTED.

C. ADDENDA

Bidder hereby acknowledges receipt of each following Addendum: No(s). 1, _____, _____, _____, _____, _____
(Bidder shall insert number of each Addendum received) and agrees that all Addenda issued are hereby made part of the Contract, and the Bidder further agrees that this Bid includes all impacts and costs resulting from said Addenda.

D. ACKNOWLEDGMENT OF TAX-EXEMPT STATUS

Bidder acknowledges that the City is a tax-exempt entity.

E. BID GUARANTY Not required per Alicia Walden, Bidding Coordinator, City of Madison

Attached hereto is a **BID BOND/CASHIER'S CHECK** (circle one) issued by _____ in the amount of \$ _____ as full satisfaction of the Bid Guaranty requirement contained in the Invitation to Bid.



City of Madison, Alabama
Bid Number: 2023-005-ITB
Project Title: Intergraph Park LED Lighting Installation
Issued: May 31, 2023

F. BIDDER'S DECLARATION AND UNDERSTANDING

Bidder has exercised his own judgment regarding the interpretation of any information or data used in arriving at his conclusions which led to the submission of this Bid. Bidder shall be fully responsible for any damages or liability arising out of his or any subcontractor's pre-bid investigations. Bidder further declares that he has carefully examined the draft contract for the Work and has checked and verified the completeness of the Contract; that he has personally inspected the drawings and specifications included in the bid packet; and that he has satisfied himself as to the quantities involved, including materials and equipment, and conditions of work involved. Bidder further declares that he is fully aware of the fact that the description of the Work, quantities of equipment and materials, as included herein, are brief and are intended only to indicate the general nature of the Work and the Project. Bidder also declares that this Bid is made according to the provisions and terms of the Contract contained in the ITB, the terms of the same being hereby made a part of this Bid.

Bidder declares that he understands and agrees that any quantities inferred from the Advertisement for Invitation to Bid and in the Bid Packet are approximate only and are subject to either increase or decrease; and, that should quantities be decreased, he further understands and agrees that payment will be made on actual quantities installed at the bid item prices, and he states that he will make no claim for anticipated profits for any decreases in the quantities. It is understood and acknowledged that actual quantities will be determined upon completion of the Work.

G. CONTRACT COMPLETION TIME

Bidder agrees to begin the Work on the date stated in the Notice to Proceed and to fully complete each assignment in all respects, subject to the timeframes established by the City Representative, and subject to Change Orders and any other lawful adjustments made to the Contract.

H. PERFORMANCE OF WORK

In the event subcontracting of any portion of the Work is contemplated by Bidder, for each subcontractor Bidder shall provide with his Bid Submittal the name and address of the subcontractor and a description of the portion of the Work to be performed.

IN WITNESS WHEREOF, the Bidder has caused this Bid Submittal Form to be completed, executed, and its seal affixed by its duly authorized representative this 22nd day of June, 2023.

Baseline Sports Construction, LLC
Legal Name of Bidder/Company

By: John W. Ferguson *John W. Ferguson*

Its: President

Date: June 22, 2023

STATE OF Tennessee §

§

COUNTY OF Knox §

I, the undersigned authority, as Notary Public in and for said County in said State, hereby certify that John W. Ferguson, whose name as President of Baseline Sports Construction, LLC is signed to the foregoing instrument, and who is known to me, s/he, as such officer and with full authority, executed the same voluntarily for and as the act of said entity on the day the same bears date.

Given under my hand and official seal this 22nd day of June, 2023.

Gayla L. Lemons
Notary Public **Gayla L. Lemons**
Exp: April 7, 2026



City of Madison, Alabama
Bid Number: 2023-005-ITB
Project Title: Intergraph Park LED Lighting Installation
Issued: May 31, 2023



BIDDER PRICING SHEET

BIDDER NAME: Baseline Sports Construction, LLC

ADDRESS: 3600 Henson Road

CITY/STATE/ZIP: Knoxville, TN 37921

Total Base Bid: \$ 128,253.00

Additive Alternate #1: \$ 17,544.00
Refurbishment of the existing poles at the Baseball Fields
Specifications located in Addendum #1

Total Base Bid + Additive Alternate #1: \$ 145,797.00

I, John W. Ferguson, as President
for the above-named entity, hereby state that the above information is true and correct to the best of my knowledge and
belief and that I understand and acknowledge that this completed form will be available for public inspection as a public
record upon request.

Date June 22, 2023

John W. Ferguson
Signature of Authorized Representative **John W. Ferguson**

City of Madison, Alabama
Bid Number: 2023-005-ITB
Project Title: Intergraph Park LED Lighting Installation
Issued: May 31, 2023



IMMIGRATION LAW COMPLIANCE FORM

BIDDER NAME: Baseline Sports Construction, LLC

ADDRESS: 3600 Henson Road

CITY/STATE/ZIP: Knoxville, TN 37921

By signing below, I, the undersigned, as an authorized representative of the above-named company, hereby affirm that, for the duration of the term of service provided to the City as a result of the Bid submitted in response to the above-cited Invitation, I will not violate state or federal immigration laws or knowingly employ, hire for employment or continue to employ an unauthorized alien within the State of Alabama. Furthermore, I hereby acknowledge that if I am the successful Bidder selected to provide the goods and services set forth in the Bid and I am (or the below-named company is) found to be in violation of any state or federal immigration law, such action shall be deemed a breach of contract and shall impose complete and full responsibility on said company for all damages resulting therefrom, to the extent allowed by applicable law.

I hereby attach E-Verify Company ID Number 310141 as proof of Bidder's enrollment in E-Verify.

I, John W. Ferguson, as **President** for the above-named entity, hereby state that the above information is true and correct to the best of my knowledge and belief and that I understand and acknowledge that this completed form will be available for public inspection as a public record upon request.

June 22, 2023
Date

John W. Ferguson
Signature of Authorized Representative **John W. Ferguson**



City of Madison, Alabama
Bid Number: 2023-005-ITB
Project Title: Intergraph Park LED Lighting Installation
Issued: May 31, 2023

DISCLOSURE STATEMENT

BIDDER NAME: Baseline Sports Construction, LLC

ADDRESS: 3600 Henson Road

CITY/STATE/ZIP: Knoxville, TN 37921

In accordance with Ala. Code §§ 36-25-11 and 36-25-14 (1975), the City of Madison, Alabama, requires each Bidder to provide the following information in anticipation of a bid award. Completion of this Disclosure Statement will not affect evaluation of your Bid except to the extent that your failure to disclose truthful answers may result in elimination of your Bid from evaluation.

1. Do you or any owner, officer, director, trustee, consultant, employee, or holder of more than five percent (5%) of the fair market value of your business entity share a household with any employee, elected official, or appointed official of the City of Madison, Alabama, such that the City employee or official will benefit from this Contract?
 Yes X No

If yes, please provide the name and position of the individual associated with your business, the name of the City employee/official, their relationship and the nature of the benefit.

N/A

2. Do you understand and acknowledge that:
a. unless exempt pursuant to Alabama competitive bid laws or otherwise permitted by law, no public official or public employee, or a member of the household of the public employee or the public official, and no business with which the person is associated shall enter into any contract to provide goods or services which is to be paid in whole or in part out of municipal funds unless the contract has been awarded through a process of competitive bidding and a copy of the contract is filed with the Alabama State Ethics Commission;
b. all such contract awards shall be made as a result of original bid takings, and no awards from negotiations after bidding shall be allowed; and
c. a copy of each contract, regardless of the amount, entered into by a public official, public employee, a member of the household of the public employee or the public official, and any business with which the person is associated shall be filed with the commission within ten (10) days after the contract has been entered into? X Yes No

I, John W. Ferguson, as President
for the above-named entity, hereby state that the above information is true and correct to the best of my knowledge and belief and that I understand and acknowledge that this completed form will be available for public inspection as a public record upon request.

June 22, 2023
Date

John W. Ferguson
Signature of Authorized Representative **John W. Ferguson**



City of Madison, Alabama
Bid Number: 2023-005-ITB
Project Title: Intergraph Park LED Lighting Installation
Issued: May 31, 2023

STATEMENT OF NON-COLLUSION

BIDDER NAME: Baseline Sports Construciton, LLC
ADDRESS: 3600 Henson Road
CITY/STATE/ZIP: Knoxville, TN 37921

On behalf of myself and the above-named Bidder, I hereby declare and aver that there has been no agreement or collusion by Bidder with any other Bidder or prospective Bidder to propose a fixed price or to refrain from submitting a Bid or to act in any similar way that would render my Bid void. I further acknowledge that any such action will result in the disqualification of all involved parties from submitting bids or proposals to the City of Madison, Alabama, on any future purchases. I further declare that I understand that the knowing and intentional participation in a collusive agreement involving a purchase exceeding fifty thousand dollars (\$50,000.00) is a Class C felony. *See Ala. Code § 39-2-2(c) (1975).*

Additionally, I hereby state that the only persons or parties interested in this submitted Bid are those named herein; that this Bid is, in all respects, fair and without fraud; that it is made without collusion with any official of the City; and that the Bid is made without any connection or collusion with any person submitting another Bid in Response to this Invitation To Bid as stated above.

I, John W. Ferguson, as President
for the above-named entity, hereby state that the above information is true and correct to the best of my knowledge and belief and that I understand and acknowledge that this completed form will be available for public inspection as a public record upon request.

June 22, 2023
Date

John W. Ferguson
Signature of Authorized Representative **John W. Ferguson**

City of Madison, Alabama
Bid Number: 2023-005-ITB
Project Title: Intergraph Park LED Lighting Installation
Issued: May 31, 2023



REFERENCES FORM

BIDDER NAME: Baseline Sports Construction, LLC

ADDRESS: 3600 Henson Road

CITY/STATE/ZIP: Knoxville, TN 37921

1. Does the City have concurrence from the Bidder to contact any and all references included?
 Yes No
2. Supply names, addresses, and telephone numbers of three (3) customer references for whom your company has provided services similar to those requested by the City. **See attached.**

a. Customer Name: _____
 Address: _____
 Phone Number: _____
 Contact Person: _____
 Contact's Email: _____
 Project Details: _____

b. Customer Name: _____
 Address: _____
 Phone Number: _____
 Contact Person: _____
 Contact's Email: _____
 Project Details: _____

c. Customer Name: _____
 Address: _____
 Phone Number: _____
 Contact Person: _____
 Contact's Email: _____
 Project Details: _____

STATE OF ALABAMA



LICENSE NO.: 45737
TYPE: RENEWAL

BID LIMIT: U
AMOUNT: UNLIMITED

State Licensing Board for General Contractors

THIS IS TO CERTIFY THAT

BASELINE SPORTS CONSTRUCTION LLC

KNOXVILLE, TN 37921

is hereby licensed a General Contractor in the State of Alabama and is authorized to perform the following type(s) of work:

BC: BUILDING CONSTRUCTION, MU-S: CONCRETE PAVEMENT, MU-S: CONCRETE PROJECTS, MU-S: FENCING, MU-S: PAVING AND ASPHALT, MU-S: STRIPING, REP: RECIPROCITY STATE OF TENNESSEE, SC: TENNIS COURTS

until November 30, 2023 when this Certificate expires.

Witness our hands and seal of the Board, dated Montgomery, Ala.,

189947

8th day of November, 2022

SECRETARY-TREASURER

CHAIRMAN

Michael B. Tew

Charles A. Grobe, Jr.

Client#: 657835

BASESPORT

ACORDTM

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/25/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh & McLennan Agency LLC 413 North Shore Drive, SW Suite E Knoxville, TN 37919	CONTACT NAME: Marilyn S Spoon	
	PHONE (A/C, No, Ext): 865-588-7200 FAX (A/C, No): 865-588-7224 E-MAIL ADDRESS: Marilyn.Spoon@MarshMMA.com	
INSURED Baseline Sports Construction, LLC 3600 Henson Rd. Knoxville, TN 37921	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Selective Ins. Co. of SC	19259
	INSURER B : Selective Insurance Company of America	12572
	INSURER C :	
	INSURER D :	
	INSURER E :	
INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> PD Ded:1,000 GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:		S2405818	11/01/2022	11/01/2023	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY		S2405818	11/01/2022	11/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB DED RETENTION \$ <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE		S2405818	11/01/2022	11/01/2023	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N N/A	WC9070801	11/01/2022	11/01/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E L EACH ACCIDENT \$1,000,000 E L DISEASE - EA EMPLOYEE \$1,000,000 E L DISEASE - POLICY LIMIT \$1,000,000
A	Installation Floater		S2405818	11/01/2022	11/01/2023	\$200,000 Limit \$100,000 Temp Storage \$1,000 Deductible

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

Baseline Sports Construction
3600 Henson Road
Knoxville, TN 37921

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

PETER J. KRAUSE

Company ID Number: 310141

**THE E-VERIFY
MEMORANDUM OF UNDERSTANDING
FOR EMPLOYERS**

**ARTICLE I
PURPOSE AND AUTHORITY**

The parties to this agreement are the Department of Homeland Security (DHS) and the Baseline Sports Construction, LLC (Employer). The purpose of this agreement is to set forth terms and conditions which the Employer will follow while participating in E-Verify.

E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of Form I-9, Employment Eligibility Verification (Form I-9). This Memorandum of Understanding (MOU) explains certain features of the E-Verify program and describes specific responsibilities of the Employer, the Social Security Administration (SSA), and DHS.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). The Federal Acquisition Regulation (FAR) Subpart 22.18, "Employment Eligibility Verification" and Executive Order 12989, as amended, provide authority for Federal contractors and subcontractors (Federal contractor) to use E-Verify to verify the employment eligibility of certain employees working on Federal contracts.

**ARTICLE II
RESPONSIBILITIES**

A. RESPONSIBILITIES OF THE EMPLOYER

1. The Employer agrees to display the following notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system:
 - a. Notice of E-Verify Participation
 - b. Notice of Right to Work
2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted about E-Verify. The Employer also agrees to keep such information current by providing updated information to SSA and DHS whenever the representatives' contact information changes.
3. The Employer agrees to grant E-Verify access only to current employees who need E-Verify access. Employers must promptly terminate an employee's E-Verify access if the employer is separated from the company or no longer needs access to E-Verify.

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4. The Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual.
 5. The Employer agrees that any Employer Representative who will create E-Verify cases will complete the E-Verify Tutorial before that individual creates any cases.
 - a. The Employer agrees that all Employer representatives will take the refresher tutorials when prompted by E-Verify in order to continue using E-Verify. Failure to complete a refresher tutorial will prevent the Employer Representative from continued use of E-Verify.
 6. The Employer agrees to comply with current Form I-9 procedures, with two exceptions:
 - a. If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 888-464-4218.
 - b. If an employee presents a DHS Form I-551 (Permanent Resident Card), Form I-766 (Employment Authorization Document), or U.S. Passport or Passport Card to complete Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The Employer will use the photocopy to verify the photo and to assist DHS with its review of photo mismatches that employees contest. DHS may in the future designate other documents that activate the photo screening tool.
- Note: Subject only to the exceptions noted previously in this paragraph, employees still retain the right to present any List A, or List B and List C, document(s) to complete the Form I-9.
7. The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.
 8. The Employer agrees that, although it participates in E-Verify, the Employer has a responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures.
 - a. The following modified requirements are the only exceptions to an Employer's obligation to not employ unauthorized workers and comply with the anti-discrimination provision of the INA: (1) List B identity documents must have photos, as described in paragraph 6 above; (2) When an Employer confirms the identity and employment eligibility of newly hired employee using E-Verify procedures, the Employer establishes a rebuttable presumption that it has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of that employee; (3) If the Employer receives a final nonconfirmation for an employee, but continues to employ that person, the Employer must notify DHS and the Employer is subject to a civil money penalty between \$550 and \$1,100 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) If the Employer continues to employ an employee after receiving a final nonconfirmation, then the Employer is subject to a rebuttable presumption that it has knowingly

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employed an unauthorized alien in violation of section 274A(a)(1)(A); and (5) no E-Verify participant is civilly or criminally liable under any law for any action taken in good faith based on information provided through the E-Verify.

b. DHS reserves the right to conduct Form I-9 compliance inspections, as well as any other enforcement or compliance activity authorized by law, including site visits, to ensure proper use of E-Verify.

9. The Employer is strictly prohibited from creating an E-Verify case before the employee has been hired, meaning that a firm offer of employment was extended and accepted and Form I-9 was completed. The Employer agrees to create an E-Verify case for new employees within three Employer business days after each employee has been hired (after both Sections 1 and 2 of Form I-9 have been completed), and to complete as many steps of the E-Verify process as are necessary according to the E-Verify User Manual. If E-Verify is temporarily unavailable, the three-day time period will be extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability.

10. The Employer agrees not to use E-Verify for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use that this MOU or the E-Verify User Manual does not authorize.

11. The Employer must use E-Verify for all new employees. The Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. Employers who are Federal contractors may qualify for exceptions to this requirement as described in Article II.B of this MOU.

12. The Employer agrees to follow appropriate procedures (see Article III below) regarding tentative nonconfirmations. The Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending. Further, when employees contest a tentative nonconfirmation based upon a photo mismatch, the Employer must take additional steps (see Article III.B. below) to contact DHS with information necessary to resolve the challenge.

13. The Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(l)) that the employee is not work authorized. The Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo mismatch, does not establish, and should not be interpreted as, evidence that the employee is not work authorized. In any of such cases, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment eligibility status

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(including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, withholding pay, refusing to assign the employee to a Federal contract or other assignment, or otherwise assuming that he or she is unauthorized to work) until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo mismatch or if a secondary verification is completed and a final nonconfirmation is issued, then the Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 (customer service) or 1-888-897-7781 (worker hotline).

14. The Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA as applicable by not discriminating unlawfully against any individual in hiring, firing, employment eligibility verification, or recruitment or referral practices because of his or her national origin or citizenship status, or by committing discriminatory documentary practices. The Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Employer further understands that any violation of the immigration-related unfair employment practices provisions in section 274B of the INA could subject the Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

15. The Employer agrees that it will use the information it receives from E-Verify only to confirm the employment eligibility of employees as authorized by this MOU. The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords), to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

16. The Employer agrees to notify DHS immediately in the event of a breach of personal information. Breaches are defined as loss of control or unauthorized access to E-Verify personal data. All suspected or confirmed breaches should be reported by calling 1-888-464-4218 or via email at E-Verify@dhs.gov. Please use "Privacy Incident – Password" in the subject line of your email when sending a breach report to E-Verify.

17. The Employer acknowledges that the information it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)). Any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

18. The Employer agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, which includes permitting DHS, SSA, their contractors and other agents, upon

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reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer's use of E-Verify, and to respond in a prompt and accurate manner to DHS requests for information relating to their participation in E-Verify.

19. The Employer shall not make any false or unauthorized claims or references about its participation in E-Verify on its website, in advertising materials, or other media. The Employer shall not describe its services as federally-approved, federally-certified, or federally-recognized, or use language with a similar intent on its website or other materials provided to the public. Entering into this MOU does not mean that E-Verify endorses or authorizes your E-Verify services and any claim to that effect is false.

20. The Employer shall not state in its website or other public documents that any language used therein has been provided or approved by DHS, USCIS or the Verification Division, without first obtaining the prior written consent of DHS.

21. The Employer agrees that E-Verify trademarks and logos may be used only under license by DHS/USCIS (see M-795 (Web)) and, other than pursuant to the specific terms of such license, may not be used in any manner that might imply that the Employer's services, products, websites, or publications are sponsored by, endorsed by, licensed by, or affiliated with DHS, USCIS, or E-Verify.

22. The Employer understands that if it uses E-Verify procedures for any purpose other than as authorized by this MOU, the Employer may be subject to appropriate legal action and termination of its participation in E-Verify according to this MOU.

B. RESPONSIBILITIES OF FEDERAL CONTRACTORS

1. If the Employer is a Federal contractor with the FAR E-Verify clause subject to the employment verification terms in Subpart 22.18 of the FAR, it will become familiar with and comply with the most current version of the E-Verify User Manual for Federal Contractors as well as the E-Verify Supplemental Guide for Federal Contractors.

2. In addition to the responsibilities of every employer outlined in this MOU, the Employer understands that if it is a Federal contractor subject to the employment verification terms in Subpart 22.18 of the FAR it must verify the employment eligibility of any "employee assigned to the contract" (as defined in FAR 22.1801). Once an employee has been verified through E-Verify by the Employer, the Employer may not create a second case for the employee through E-Verify.

a. An Employer that is not enrolled in E-Verify as a Federal contractor at the time of a contract award must enroll as a Federal contractor in the E-Verify program within 30 calendar days of contract award and, within 90 days of enrollment, begin to verify employment eligibility of new hires using E-Verify. The Employer must verify those employees who are working in the United States, whether or not they are assigned to the contract. Once the Employer begins verifying new hires, such verification of new hires must be initiated within three business days after the hire date. Once enrolled in E-Verify as a Federal contractor, the Employer must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

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- b. Employers enrolled in E-Verify as a Federal contractor for 90 days or more at the time of a contract award must use E-Verify to begin verification of employment eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within three business days after the date of hire. If the Employer is enrolled in E-Verify as a Federal contractor for 90 calendar days or less at the time of contract award, the Employer must, within 90 days of enrollment, begin to use E-Verify to initiate verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within three business days after the date of hire. An Employer enrolled as a Federal contractor in E-Verify must begin verification of each employee assigned to the contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.
- c. Federal contractors that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), state or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency under a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. Employers in this category must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.
- d. Upon enrollment, Employers who are Federal contractors may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only those employees assigned to a covered Federal contract. After enrollment, Employers must elect to verify existing staff following DHS procedures and begin E-Verify verification of all existing employees within 180 days after the election.
- e. The Employer may use a previously completed Form I-9 as the basis for creating an E-Verify case for an employee assigned to a contract as long as:
- i. That Form I-9 is complete (including the SSN) and complies with Article II.A.6,
 - ii. The employee's work authorization has not expired, and
 - iii. The Employer has reviewed the Form I-9 information either in person or in communications with the employee to ensure that the employee's Section 1, Form I-9 attestation has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen).
- f. The Employer shall complete a new Form I-9 consistent with Article II.A.6 or update the previous Form I-9 to provide the necessary information if:
- i. The Employer cannot determine that Form I-9 complies with Article II.A.6,
 - ii. The employee's basis for work authorization as attested in Section 1 has expired or changed, or
 - iii. The Form I-9 contains no SSN or is otherwise incomplete.

Note: If Section 1 of Form I-9 is otherwise valid and up-to-date and the form otherwise complies with

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Article II.C.5, but reflects documentation (such as a U.S. passport or Form I-551) that expired after completing Form I-9, the Employer shall not require the production of additional documentation, or use the photo screening tool described in Article II.A.5, subject to any additional or superseding instructions that may be provided on this subject in the E-Verify User Manual.

g. The Employer agrees not to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU or to authorize verification of any existing employee by any Employer that is not a Federal contractor based on this Article.

3. The Employer understands that if it is a Federal contractor, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements.

C. RESPONSIBILITIES OF SSA

1. SSA agrees to allow DHS to compare data provided by the Employer against SSA's database. SSA sends DHS confirmation that the data sent either matches or does not match the information in SSA's database.

2. SSA agrees to safeguard the information the Employer provides through E-Verify procedures. SSA also agrees to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security numbers or responsible for evaluation of E-Verify or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).

3. SSA agrees to provide case results from its database within three Federal Government work days of the initial inquiry. E-Verify provides the information to the Employer.

4. SSA agrees to update SSA records as necessary if the employee who contests the SSA tentative nonconfirmation visits an SSA field office and provides the required evidence. If the employee visits an SSA field office within the eight Federal Government work days from the date of referral to SSA, SSA agrees to update SSA records, if appropriate, within the eight-day period unless SSA determines that more than eight days may be necessary. In such cases, SSA will provide additional instructions to the employee. If the employee does not visit SSA in the time allowed, E-Verify may provide a final nonconfirmation to the employer.

Note: If an Employer experiences technical problems, or has a policy question, the employer should contact E-Verify at 1-888-464-4218.

D. RESPONSIBILITIES OF DHS

1. DHS agrees to provide the Employer with selected data from DHS databases to enable the Employer to conduct, to the extent authorized by this MOU:

a. Automated verification checks on alien employees by electronic means, and

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- b. Photo verification checks (when available) on employees.
2. DHS agrees to assist the Employer with operational problems associated with the Employer's participation in E-Verify. DHS agrees to provide the Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.
3. DHS agrees to provide to the Employer with access to E-Verify training materials as well as an E-Verify User Manual that contain instructions on E-Verify policies, procedures, and requirements for both SSA and DHS, including restrictions on the use of E-Verify.
4. DHS agrees to train Employers on all important changes made to E-Verify through the use of mandatory refresher tutorials and updates to the E-Verify User Manual. Even without changes to E-Verify, DHS reserves the right to require employers to take mandatory refresher tutorials.
5. DHS agrees to provide to the Employer a notice, which indicates the Employer's participation in E-Verify. DHS also agrees to provide to the Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.
6. DHS agrees to issue each of the Employer's E-Verify users a unique user identification number and password that permits them to log in to E-Verify.
7. DHS agrees to safeguard the information the Employer provides, and to limit access to such information to individuals responsible for the verification process, for evaluation of E-Verify, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security numbers and employment eligibility, to enforce the INA and Federal criminal laws, and to administer Federal contracting requirements.
8. DHS agrees to provide a means of automated verification that provides (in conjunction with SSA verification procedures) confirmation or tentative nonconfirmation of employees' employment eligibility within three Federal Government work days of the initial inquiry.
9. DHS agrees to provide a means of secondary verification (including updating DHS records) for employees who contest DHS tentative nonconfirmations and photo mismatch tentative nonconfirmations. This provides final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.

ARTICLE III

REFERRAL OF INDIVIDUALS TO SSA AND DHS

A. REFERRAL TO SSA

1. If the Employer receives a tentative nonconfirmation issued by SSA, the Employer must print the notice as directed by E-Verify. The Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify

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case. The Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.

2. The Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.

3. After a tentative nonconfirmation, the Employer will refer employees to SSA field offices only as directed by E-Verify. The Employer must record the case verification number, review the employee information submitted to E-Verify to identify any errors, and find out whether the employee contests the tentative nonconfirmation. The Employer will transmit the Social Security number, or any other corrected employee information that SSA requests, to SSA for verification again if this review indicates a need to do so.

4. The Employer will instruct the employee to visit an SSA office within eight Federal Government work days. SSA will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.

5. While waiting for case results, the Employer agrees to check the E-Verify system regularly for case updates.

6. The Employer agrees not to ask the employee to obtain a printout from the Social Security Administration number database (the Numident) or other written verification of the SSN from the SSA.

B. REFERRAL TO DHS

1. If the Employer receives a tentative nonconfirmation issued by DHS, the Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.

2. The Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.

3. The Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation.

4. If the employee contests a tentative nonconfirmation issued by DHS, the Employer will instruct the

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employee to contact DHS through its toll-free hotline (as found on the referral letter) within eight Federal Government work days.

5. If the Employer finds a photo mismatch, the Employer must provide the photo mismatch tentative nonconfirmation notice and follow the instructions outlined in paragraph 1 of this section for tentative nonconfirmations, generally.
6. The Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo mismatch, the Employer will send a copy of the employee's Form I-551, Form I-766, U.S. Passport, or passport card to DHS for review by:
 - a. Scanning and uploading the document, or
 - b. Sending a photocopy of the document by express mail (furnished and paid for by the employer).
7. The Employer understands that if it cannot determine whether there is a photo match/mismatch, the Employer must forward the employee's documentation to DHS as described in the preceding paragraph. The Employer agrees to resolve the case as specified by the DHS representative who will determine the photo match or mismatch.
8. DHS will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.
9. While waiting for case results, the Employer agrees to check the E-Verify system regularly for case updates.

ARTICLE IV SERVICE PROVISIONS

A. NO SERVICE FEES

1. SSA and DHS will not charge the Employer for verification services performed under this MOU. The Employer is responsible for providing equipment needed to make inquiries. To access E-Verify, an Employer will need a personal computer with Internet access.

ARTICLE V MODIFICATION AND TERMINATION

A. MODIFICATION

1. This MOU is effective upon the signature of all parties and shall continue in effect for as long as the SSA and DHS operates the E-Verify program unless modified in writing by the mutual consent of all parties.
2. Any and all E-Verify system enhancements by DHS or SSA, including but not limited to E-Verify checking against additional data sources and instituting new verification policies or procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes.

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B. TERMINATION

1. The Employer may terminate this MOU and its participation in E-Verify at any time upon 30 days prior written notice to the other parties.
2. Notwithstanding Article V, part A of this MOU, DHS may terminate this MOU, and thereby the Employer's participation in E-Verify, with or without notice at any time if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Employer, or a failure on the part of the Employer to comply with established E-Verify procedures and/or legal requirements. The Employer understands that if it is a Federal contractor, termination of this MOU by any party for any reason may negatively affect the performance of its contractual responsibilities. Similarly, the Employer understands that if it is in a state where E-Verify is mandatory, termination of this by any party MOU may negatively affect the Employer's business.
3. An Employer that is a Federal contractor may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such cases, the Federal contractor must provide written notice to DHS. If an Employer that is a Federal contractor fails to provide such notice, then that Employer will remain an E-Verify participant, will remain bound by the terms of this MOU that apply to non-Federal contractor participants, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.
4. The Employer agrees that E-Verify is not liable for any losses, financial or otherwise, if the Employer is terminated from E-Verify.

**ARTICLE VI
PARTIES**

- A. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.
- B. Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Employer, its agents, officers, or employees.
- C. The Employer may not assign, directly or indirectly, whether by operation of law, change of control or merger, all or any part of its rights or obligations under this MOU without the prior written consent of DHS, which consent shall not be unreasonably withheld or delayed. Any attempt to sublicense, assign, or transfer any of the rights, duties, or obligations herein is void.
- D. Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Employer.
- E. The Employer understands that its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to,

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Congressional oversight, E-Verify publicity and media inquiries, determinations of compliance with Federal contractual requirements, and responses to inquiries under the Freedom of Information Act (FOIA).

F. The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer and DHS respectively. The Employer understands that any inaccurate statement, representation, data or other information provided to DHS may subject the Employer, its subcontractors, its employees, or its representatives to: (1) prosecution for false statements pursuant to 18 U.S.C. 1001 and/or; (2) immediate termination of its MOU and/or; (3) possible debarment or suspension.

G. The foregoing constitutes the full agreement on this subject between DHS and the Employer.

To be accepted as an E-Verify participant, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 1-888-464-4218.

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Approved by:

Employer Baseline Sports Construction, LLC	
Name (Please Type or Print) Jamie K Harrison	Title
Signature Electronically Signed	Date 03/09/2010
Department of Homeland Security – Verification Division	
Name (Please Type or Print) USCIS Verification Division	Title
Signature Electronically Signed	Date 03/09/2010

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Information Required for the E-Verify Program	
Information relating to your Company:	
Company Name	Baseline Sports Construction, LLC
Company Facility Address	3600 Henson Road Knoxville, TN 37921
Company Alternate Address	
County or Parish	KNOX
Employer Identification Number	621837086
North American Industry Classification Systems Code	238
Parent Company	
Number of Employees	10 to 19
Number of Sites Verified for	2

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Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name Paul D Clapp
Phone Number (865) 588 - 4320
Fax Number (865) 588 - 4111
Email Address david@baselinellc.com

Name Jamie K Harrison
Phone Number (865) 588 - 4320
Fax Number (865) 588 - 4111
Email Address kent@baselinellc.com

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REFERENCE LIST FOR RUNNING TRACKS

ATHENS HIGH SCHOOL, ATHENS, AL (2022)

Seawell McKee, 334-546-0686. Track Reconstruction.

LEE COUNTY HIGH SCHOOL, JONESVILLE, VA (2022)

Brian Coomer, 276-346-0173. Track Reconstruction.

MUSCLE SHOALS HIGH SCHOOL, MUSCLE SHOALS, AL (2022)

Dr. Chad Holden, Superintendent 256-389-2600. Track Reconstruction.

SULLIVAN EAST HIGH SCHOOL, BLUFF CITY, TN (2021)

Andy Hare, Principal, 423-354-1900. Track Reconstruction.

POWELL HIGH SCHOOL, POWELL, TN (2021)

Chris Towe, Knox County Schools, 865-594-3772. Track Resurfacing.

LOUDON COUNTY HIGH SCHOOL, LOUDON, TN (2021)

Autumn K. Friday, 423-209-7827. Track & field drainage improvements.

MCEACHERN HIGH SCHOOL, POWDER SPRINGS, GA (2021)

Mike Smoak, BSS, 443-465-8040. New track installation.

RED BANK HIGH SCHOOL, CHATTANOOGA, TN (2020)

Autumn K. Friday, 423-209-7827. Track & field drainage improvements.

BYRNES HIGH SCHOOL, DUNCAN, SC (2020)

Andrew Gable, 864-303-5345. Resurface and track and field events.

CHESTERFIELD HIGH SCHOOL, CHESTERFIELD, SC (2020)

Procurement Supervisor, Wayne Wallace 843-680-2518 Track resurfacing.

COOKEVILLE HIGH SCHOOL, COOKEVILLE, TN (2020)

School Facilities Representative, John Magura, (931)261-4336. Track replacement.



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 Email: info@baselineLLC.com



Synthetic Turf Reference List

Lenoir City High School, Lenoir City, TN (2022)

Conversion from natural to synthetic football and baseball fields. Chris Britain, Athletic Director, can be reached at 865-556-9961.

Sullivan East, Bluff City, TN (2022)

Turf improvements to synthetic baseball and softball fields. Andy Hare, Principal, can be reached at 423-354-1900.

McCallie School, Chattanooga, TN (2022)

Demo and replace synthetic football field. Chip Verner, TKC Management Services, can be reached at 423-493-5556.

Carson Newman University, Jefferson City, TN (2022)

Conversion from natural to synthetic soccer field. Matthew Pope, Athletic director, who can be reached at 865-471-3372.

Carson Newman University, Jefferson City, TN (2021)

Conversion from natural to synthetic softball field. Matthew Pope, Athletic director, who can be reached at 865-471-3372.

Lincoln Memorial University, Harrogate, TN (2021)

Conversion from natural to synthetic turf for lacrosse field. David Laws is the Facilities Construction Superintendent, who can be reached at 423-869-6418.

The Citadel, Charleston, SC (2020)

New installation of synthetic turf football field. Assistant Athletic Director is Geoff Von Dollen, who can be reached at 843-953-5352.

Cookeville High School, Cookeville, TN (2020)

New installation of synthetic turf football field. Julie Baker, the booster club representative can be reached at 423-715-8212. John Magura, the school facilities representative can be reached at 931-261-4336.

Volunteer High School, Church Hill, TN (2020)

New installation of synthetic turf football field. Thomas Floyd, the Assistant Superintendent can be reached at 423-754-3713.



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William G. Cooke Park, Athens, TN (2018/2019)

New construction of synthetic turf fields: 2 softball infields, 1 tee ball field, 1 baseball field, and 1 soccer field. John Gentry, McMinn County Mayor, can be reached at 423-745-7634.

The University of the Cumberland, Williamsburg, KY (2017/2018)

Installed new synthetic turf varsity football field at their stadium (2017).
Installed new synthetic turf varsity soccer and lacrosse field across from the stadium (2018) Travis Wilson is the Facilities Director, who can be reached at 606-539-4236.

Knox County Schools, Knoxville, TN (2016/2018)

Install new synthetic turf football/soccer fields at 13 Knox County High Schools. The Knox County Schools Director of Facilities Management is Doug Shover, who can be reached at 865-594-1825.

- 2016 - Bearden High School, Central High School, Farragut High School, Fulton High School, Powell High School
- 2017 – South Doyle High School, Gibbs High School, Halls High School, Carter High School, Karns High School
- 2018 – Hardin Valley Academy, Austin East High School, West High School

Lincoln Memorial University, Harrogate, TN (2017)

New construction of synthetic turf fields for both softball and baseball. David Laws is the Facilities Construction Superintendent, who can be reached at 423-869-6418.

Engel Intramural Sports Complex, UTC, Chattanooga, TN (2017)

Turnkey construction of 5 synthetic turf fields including concrete, sub surface drainage, free draining stone base and synthetic turf. Joe Sawyer of Barge Design can be reached at 423-805-9744.

The Citadel, Charleston, SC (2017)

Removal of old turf and reconstruction of subgrade and drainage for new synthetic turf field practice, football field and soccer field. Assistant Athletic Director is Geoff Von Dollen, who can be reached at 843-953-5352.

Sansom Sports Complex, Knoxville, TN (2015)

New construction of multi-field soccer complex. The facility is operated by the Emerald Youth Foundation. David Wells can be reached at 865-256-6792.



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Tennis Courts Reference List

Truett McConnell Tennis, Cleveland, GA (2022)

Jenni Shepard, Vice President of Athletics, Truett McConnell University, 706-491-6327.
New construction of 8 tennis courts.

Tellico Village Pickleball, Loudon, TN (2022)

Clayton Taylor, Tellico Village Property Owners Association, 865-458-7081
New construction of 4 pickleball courts.

Johnson City Senior Center Pickleball, Johnson City, TN (2022)

Deb Fogle, Senior Services Manager, 423-434-6231. Conversion of tennis courts at
MPCC to Pickleball courts.

RVC Pickleball, Sevierville, TN (2022)

Jenkins & Stiles, LLC, 865-671-0130. Construction of new pickleball courts.

Va Du Mar Park, Spartanburg, South Carolina (2022)

Mike Nation, Senior Project Manager, Spartanburg County Parks Department, 865-804-
5816. Construction of 1 tennis court and 8 pickleball courts, resurface 8 existing courts.

Lee County Tennis, Jonesville, VA (2022)

Brian Dean, Superintendent, Lee County Public Schools, 276-346-0173.
Reconstruction of 4 tennis courts.

Frank Lorino, Morristown, TN (2022)

Anthony Cox, City Administrator, City of Morristown, 423-581-5630. Tennis court
rehabilitation, 8 courts, 1 practice court.



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ORDINANCE NO. 2023-210

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF CHAPTER 10 OF THE CITY CODE OF ORDINANCES RELATED TO BUSINESS LICENSES

WHEREAS, the City of Madison City Code does not currently require a business license for persons and/or entities engaged in the manufacturing of liquor; and,

WHEREAS, the City of Madison City Code does not currently require a business license for persons and/or entities engaged in media streaming; and,

WHEREAS, the 2002 NAICS TITLES/BUSINESS LICENSE CODES provides model descriptions of business for the issuance of a business license for both the business activity of manufacturing liquor and media streaming.

BE IT ORDAINED, by the City Council of the City of Madison, Alabama as follows:

Section 1. That Section 10-25 of the Code of Ordinances for the City of Madison, Alabama, be hereby amended to include the following business license codes:

<u>2002 NAICS TITLES/ BUSINESS LICENSE CODES</u>	<u>SCHEDULE</u>
312140 LIQUOR – MANUFACTURER	H
516210 MEDIA STREAMING DISTRIBUTION	D

Section 2. That each section herein and each fee established by this ordinance is hereby declared to be an independent provision and that if any court of competent jurisdiction declares any word, clause, phrase, sentence, paragraph, or provision of this ordinance hereof to be void and invalid for any reason, such invalidity shall not affect any other word, clause, phrase, sentence, paragraph, or provision hereof.

Section 3. That this ordinance shall become effective immediately upon its adoption and proper publication as required by law.

READ, PASSED, AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 24th day of July 2023.

Ranae Bartlett, City Council President
City of Madison, Alabama

ATTEST:

Lisa D. Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this ____ day of July 2023.

Paul Finley, Mayor
City of Madison, Alabama