



Agenda
REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF MADISON, ALABAMA
6:00 PM
Council Chambers
April 24, 2023

AGENDA NO. 2023-08-RG

To protect the public health during the COVID-19 pandemic, according to State and Federal guidelines, the City Council will observe social distancing procedures at the Council Meeting. Anyone who is sick or who is living with a quarantined family member should not attend the meeting. 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 would like to weigh in on a Council matter but do not want to attend due to concerns about the pandemic 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 Cody Edger, Cornerstone Word of Life Church

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL OF ELECTED GOVERNING OFFICIALS

5. AMENDMENTS TO AGENDA

6. APPROVAL OF MINUTES

A. Minutes No. 2023-07-RG, dated April 10, 2023

7. PRESENTATIONS AND AWARDS

A. Proclamation by Mayor designating May 4, 2023, as National Day of Prayer in the City of Madison. Proclamation to be presented to Tammy Steinberg of National Day of Prayer Task Force

8. PUBLIC COMMENTS-PERTAINING TO AGENDA

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. 2023-154-R:** Providing for the disposition of personal property of negligible value (2001 GCII Goshen Body Bus/E-450 Super Duty), formerly used by the Madison Senior Center, via online auction through GovDeals website, pursuant to Section 16-108 of Code of Ordinances of the City of Madison
- C. Authorization of payment to Barge Design Solutions, Inc. in the amount of \$13,984.52 for professional services completed from February 25 – March 31, 2023 on Project No. 19-047 (Wall Triana and I565 Intersection Improvements- ATRP2-45-2020-327, Invoice No. 209539, PO No. 2022-1151) (to be paid from 2015-A Bond account)
- D. Authorize the Engineering Department to solicit quotes for sidewalk improvements at Home Place subdivision in an amount not to exceed \$50,000 (to be paid from the Engineering Department budget)
- E. Authorization of payment to Wiregrass Construction in the amount of \$36,362.39 for work completed thru March 31, 2023 on CIP Project No. 20-028 (Middle School Infrastructure Project - Bid No. 2021-008-ITB) (to be paid from 2020-A Bond Account)
- F. Acceptance of donations from: M.C. Flurer in the amount of \$25, and J. Cazer in the amount of \$100 (to be deposited into Senior Center Donation account)

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 of Patrick Freel to Place 1 of the Madison Police Citizens Advisory Committee to complete a vacated term with expiration of April 26, 2025
- B. Appointment of Phyllis Smith Campbell to Place 2 of the Madison Police Citizens Advisory Committee with a term expiration of April 26, 2027
- C. Appointment of Place 4 of the Madison Police Citizens Advisory Committee with a term expiration of April 26, 2027
- D. Appointment of Place 6 of the Madison Police Citizens Advisory Committee with a term expiration of April 26, 2027
- E. Appointment to Place 7 of the Madison Police Citizens Advisory Committee to complete a vacated term with expiration of April 26, 2025
- F. Appointment of Shaylyn Lecroy to Place 2 of the Recreation Advisory Board with a term expiration of October 13, 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. Proposed Ordinance No. 2023-076: amending Section 5-15-1 of the Zoning Ordinance pertaining to parking space requirements for mini storage and self-service storage facilities (First Reading 3/13/2023)

B. Resolution No. 2023-133-R: Authorizing a Reimbursement Agreement with Enfinger Development, LLC for construction of a roundabout and roadway at the intersection of Hardiman and Madison Branch Boulevard in an amount not to exceed \$1,393,898 (to be paid from General Operating account)

13. DEPARTMENT REPORTS

CITY CLERK

A. Resolution No. 2023-102-R: Authorizing the continuing levying of ad valorem taxes in the City of Madison at existing rates

ENGINEERING

A. Resolution No. 2023-089-R: Authorizing the City to accept a temporary construction easement for the maintenance and improvement of a drainage ditch project in downtown Madison.

B. Resolution No. 2023-145-R: Authorizing a Professional Services Agreement with Croy Engineering, LLC for engineering design on Project 23-016 (Hughes Rd and Mill/Portal Signal Improvement) in an amount not to exceed \$50,772.00 (to be paid from Engineering Department budget)

C. Resolution No. 2023-147-R: Authorizing a Professional Services Agreement with Garver, LLC for design recommendations on channel improvements along the major drainage ways in the Stavemill Estates (Portal Lane) area in the amount of \$125,230 (to be paid from Engineering Department budget)

FIRE

A. Resolution No. 2023-150-R: Authorizing renewal of lease for an ambulance with HEMSI in the amount of \$1 a year (to be paid from Fire Department budget)

HUMAN RESOURCES

A. Resolution No. 2023-148-R: Authorizing an Agreement for Tuition Payment, Employee Retention, and Reimbursement for IT Employee to obtain Cybersecurity Degree in the amount of \$17,200 (to be paid from IT Department budget)

INFORMATION TECHNOLOGY

A. Resolution No. 2023-151-R: Authorizing a License Agreement with Southern Broadcasting LLC for Rainbow Mountain Tower

B. Resolution No. 2023-152-R: Authorizing a License Agreement with Madison County Veterans Association for Rainbow Mountain Tower

PLANNING

A. Proposed Ordinance No. 2023-137: Conversion of a portion of an open easement to an utility and drainage easement located within Lots 1-26 of Acadia at Arlington Park Subdivision (First Reading)

B. Proposed Ordinance No. 2023-138: Vacation of a portion of a utility and drainage easement located within The Heights at Town Madison Subdivision (First Reading 04/10/2023)

POLICE

- A. **Resolution No. 2023-132-R:** Authorizing an amended towing services agreement with Sarina Enterprise, Inc., d/b/a Import Wrecker, to incorporate changes to regulation of towing companies

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. 2023-07-RG
REGULAR CITY COUNCIL MEETING
OF MADISON, ALABAMA
April 10, 2023**

To protect the public health during the COVID-19 pandemic, and according to State and Federal Guidelines, the Madison City Council observed social distancing procedures at the Council meeting. Anyone who was sick or was living with a quarantined family member was recommended against attending the meeting. 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 due to the COVID pandemic, 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, April 10, 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.

City Clerk-Treasurer Lisa D. Thomas provided the invocation followed by the Pledge of Allegiance led by Council President Ranae Bartlett.

ELECTED GOVERNING OFFICIALS IN ATTENDANCE

Mayor Paul Finley	Present
Council District No. 1 Maura Wroblewski	Present
Council District No. 2 Connie Spears	Arrived at 6:03 P.M.
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	Present

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 Support Technician Toby Jenkins, Police Chief Johnny Gandy, Fire Chief David Bailey, Director of Finance Roger Bellomy, City Engineer Michael Johnson, Director of Revenue Cameron Grounds, Deputy Revenue Officer Ivon Williams, and Director of Development Services Mary Beth Broeren.

Public Attendance registered: Rosalie Holcombe, Margi Daly, Linda Vaughan, Bernadette Mayer, Ben Jennings, Daniel Yobb, Frederick Detwiler, George Detwiler, Jonathan Yoss, Jennifer Coe, Terri Johnson, Matt Crandon, Zach Mahotza

AMENDMENTS TO AGENDA

City Clerk-Treasurer Lisa Thomas advised of an election poll worker unable to fulfill the obligation due to a medical reason and an alternate will be replaced. Council President Bartlett advised to have Resolution No. 2023-136-R amended with that correction when she makes her department report.

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

APPROVAL OF MINUTES

MINUTES NO. 2023-06-RG DATED MARCH 27, 2023

Council Member Powell moved to approve Minutes No. 2023-06-RG. Council Member Shaw seconded. The roll call vote taken was recorded as follows:

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

Motion carried.

PRESENTATIONS AND AWARDS

PROCLAMATION DESIGNATING APRIL 2023 AS "FAIR HOUSING MONTH" IN THE CITY OF MADISON, ALABAMA

Mayor Finley presented a proclamation to the Huntsville Area Association of Realtors, in which he designated April 2023 as "Fair Housing Month" in the City of Madison, Alabama.

PRESENTATION BY WARREN AVERETT OF FY 2022 COMPREHENSIVE ANNUAL AUDIT REPORT

Warrant Averett Audit Partner, Mr. Adam Nelson who is in charge of the city's financial statement audit, provided a brief overview to City Council and Mayor Finley the fiscal year 2022 comprehensive annual audit results.

PRESENTATION OF MADISON VISIONARY AWARD WINNERS BY MELANIE THORNTON, EXECUTIVE DIRECTOR OF MADISON VISIONARY PARTNERS

Ms. Thornton and Mayor Finley presented awards to the recent community volunteers honoring individuals who make the community a great place to work and live.

- Olivia Downs, Youth Volunteer of the Year, Senior at James Clemens High School
- Elizabeth Servideo, Community Volunteer of the Year, Madison Senior Center

- Mary Grace representing Redstone Federal Credit Union, Philanthropic Business of the Year
- Debbie Overcash, Lifetime achievement - Madison Visionary of the year

A round of applause was given to the winners.

Mayor Finley expressed how Madison Visionary Partners have helped our city in so many ways, giving thanks to the winners and all that were nominated. Mayor Finley also wanted to thank them for their time volunteering which generates a positive impact to our city within the schools, senior center, and longevity of volunteering to the community. Mayor Finley also expressed thanks to the staff at Redstone Federal Credit Union for all they have done for the community.

PUBLIC COMMENTS

*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.*

MR. CROWNOVER

Mr. Crownover appeared before Council and Mayor Finley providing a handout and to voice his concerns on the following items:

- Recently moved to the City of Madison from Texas and learned his property and surrounding community, Phase 3 of Nature's Trail is not zoned for his children to attend Madison City Schools
- Questioned if single family homes or entire community could be annexed into the City of Madison

Mayor Finley replied that he will contact the Director of Developmental Services to find out if there is information, he is able to provide to him.

BERNADETTE MAYER (DISTRICT 5) HEATHERWOOD SUBDIVISION

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

- Restore five-minute limit for public comments
- Request to reject Resolution No. 2023-144-R on the agenda
- Additional electrical equipment installed on homes by Madison Utilities
- Council-Manager initiative and leadership
- City debt

ROSALIE HOLCOMBE (DISTRICT 2)

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

- Spoke on behalf of Madison Arts Council which will soon be launched as Madison Arts Alliance
- Commended Madison Visionary Partners have been excellent to provide guidance during the transition
- Thanked City Council, Mayor Finley and Council Member Wroblewski as their liaison for all the support provided
- Planning summer concert series with announcement of dates and bands

MARGI DALY (DISTRICT 6)

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

- City Manager form of government
- City-Manager information on the city’s website
- Voting concerns and Madison Forward petition
- Opposed to moving public comments to end of council meeting
- Street paving

JENNIFER COE (DISTRICT 5) ASHLEY ESTATES

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

- Opposition of the City-Manager Form of Government
- City debt due to economic development
- Basic city services
- Concern of moving public comments to end of meeting

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	\$1,863,360.51
Special General Operating Accounts	\$318.32
ADEM Storm Drainage	\$7,500.00
1/2 Cent Capital Replacement	\$10,962.00
1/2 Cent Infrastructure	\$38,800.00
Gasoline Tax & Petroleum Inspection fees	\$14,726.53

CIP Bond Accounts	\$18,138.81
Library Building Fund	\$11,758.17

Regular and periodic bills to be paid

Resolution No. 2023-034-R: Approving an annual appropriation agreement with the Madison Arts Council for FY 23 in the amount of \$5,000 to be paid from General Operating account

Resolution No. 2023-139-R: Providing for the disposition of personal property of negligible value, formerly used by the Court Department, via destruction due to outdated software, pursuant to Section 16-108 of the Code of Ordinances.

Resolution No. 2023-143-R: Requiring price quotes for the purchase of goods which do not meet the State of Alabama requirements for bidding

Resolution No. 2023-146-R: Acceptance of AMIC Settlement Claim No: 058532AH in the amount of \$1,007.85 for Police Vehicle No. 328 (Final Payment. Claim is now closed)

Bid No. 2023-003-ITB: Authorization to solicit bids for fencing at Kids Kingdom playground (to be issued 04/12/2023)

Bid No. 2023-004-ITB: Authorization to solicit bids for Hexagon open air pickleball courts (to be issued 04/12/2023)

Approval of payment to Shoals Electric Company, Inc. in the amount of \$99,500.00 (Invoice No. 29609, PO No. 2022-0245, Project No. 21-017 Traffic Signal Modifications) to be paid from 2020-A Bond account

Approval of payment to Wiregrass Construction Company in the amount of \$84,383.24 (Invoice No. 15, CIP No. 20-028 (Middle School Roadway Extension) work performed February 1, 2023 thru February 28, 2023, Bid No. 2021-008-ITB) to be paid from 2020-A Bond Account

Approval of payment to Croy Engineering in the amount of \$361.35 (Invoice No. 27081, Project No. 18-023, Sullivan Street Widening CE&I performed) to be paid from 2018-C Bond account

Council Member Powell seconded. The roll call vote to approve the Consent Agenda 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	Aye

Motion carried.

Council President Bartlett asked Council Member Shaw and Mayor Finley if they wanted to speak about one item on the agenda regarding price quotes for purchases of goods. Mayor Finley responded referring to an item from the audit report that could be improved and continuously make sure we meet every qualification that is required.

PRESENTATION OF REPORTS

MAYOR PAUL FINLEY:

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

- Madison Arts Council charter funds with Madison Visionary Partners
- Mayor's office allocates two hours every two weeks for citizens to come into the office and discuss concerns and overlook his whiteboard with information for accountability.
- Advised the public of the numerous citizens that have come into his office to discuss how to improve the arts in the city and offering to help raise funds for the arts without having the city fund it.
- Reminded the public if 3 minutes is not enough time during council meetings that they are welcome to spend 30 minutes to an hour at the Mayor's office, where he will listen, learn, and discuss your concerns.
- Thanked Code Enforcement for picking up signs that are not in compliance especially during this time of election. Urged citizens to not place signs in the right of way due to a safety standpoint.

COUNCIL DISTRICT NO. 1 MAURA WROBLEWSKI

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

- Madison Municipal Cemeteries Committee meeting is scheduled for next Tuesday April 18th at 2:00 pm in Conference Room 130 at City Hall if anyone is interested in attending.

COUNCIL DISTRICT NO. 2 CONNIE SPEARS

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

- At the last Madison Utilities meeting, Citizen Ms. Daly attended and spoke about opting out of a radio frequency emitter on meters. Currently there is no option to opt out, but it is possibly available in the future. The equipment is in the utility drainage easement and not specifically on a residential home. Utilities slowly drive by with an antenna wand to read the meter opposed to manually walking which improves efficiency readings and pinpoint leaks quicker that were not detectable with the prior system used. The current system is an upgrade. Council Member Wroblewski asked if there was a cost to the upgrade to the community. She replied no, it's more of a benefit.
- Reminded the public that Madison Utilities have public meetings every other Monday at 5:30 at the Madison Utilities building on Palmer Road. Citizens are welcome to attend and voice their comments.

COUNCIL DISTRICT NO. 3 TEDDY POWELL

No business to report.

COUNCIL DISTRICT NO. 4 GREG SHAW

RESOLUTION NO. 2023-144-R: AUTHORIZING TEMPORARY REORDERING OF PUBLIC COMMENTS FOR CITY COUNCIL AGENDA

Council Member Shaw moved to approve Resolution No. 2023-144-R Council Member Powell seconded. President Bartlett opened for discussion. Council Member Shaw explained moving public comments to the end is for non-agenda items only allowing City Department Heads to leave sooner. Does not exclude public comments for agenda items.

Council Member Spears confirmed that a citizen may speak on agenda items for 3 minutes in the beginning and have an additional 3 minutes at the end of the meeting for anything else.

Council President Bartlett stated that this would be a trial period through May and feedback will be discussed at the scheduled May 17th Work Session.

Mayor Finley asked when it will go into effect. Council President Bartlett replied that it will go into effect at the next City Council Meeting.

Council Member Wroblewski added that Madison County Commission and Huntsville City Council do the same and that this allows us an opportunity to test it out.

Council Member Powell asked if someone is speaking about something that is on the agenda and veers off onto something that is not on the agenda, will it be Council President Bartlett who will have the option to stop them at that point. Council President Bartlett replied that he is correct.

Council Member Denzine shared the following statement:

"Listening to the Citizens is the first order of business - not the last.

I do not support suddenly moving Public Comments to the end - especially for a trial period of April and May - when we have a very important Special Election for possibly changing our current form of government on May 9th.

I applaud the Citizens that are engaged in the process and take the time to attend City Council and make their voices heard.

I have always championed the voice of the citizen and acknowledged my role as a representative of them.

As such, I do not see a compelling reason to change how Madison has always done it. We have always put the Citizen's voice first. We are not Huntsville.

I appreciate the time City Department Heads spend at CC meetings.

But It's only under unusual circumstances that Public Comments go longer than a few minutes. Over the years - I remember when Bebe was the only person to speak.

Personally- I actually believe it is good for City workers to hear the people's perspectives since they also work for the people.

Respect is a 2-way street. I believe keeping the Public Comments at the beginning of the meeting shows respect for the Citizen's voice. Just as respectfully addressing the CC shows deference to fellow citizens."

The 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	Nay
Council Member John Seifert	Aye

Motion carried.

COUNCIL DISTRICT NO. 5 RANAЕ BARTLETT

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

- Participated last week in Leadership Huntsville's Public Safety Day and commended Police Chief Johnny Gandy for representing the City of Madison on the Public Safety Panel.
- The Wednesday April 19th Work Session that was being planned for will not be happening due to a couple of people being unavailable. The next Work Session will be held on May 17th and they will be discussing the feedback they receive on the reordering of the business meeting after a few have been held.

COUNCIL DISTRICT NO. 6 KAREN DENZINE

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

- Last week attended the Community Center Construction Meeting. Thanked Lee Builders for the walk-through of the project. Demolition is ahead of schedule and transformation is incredible.
- April 14th is the last day to submit an application for the Madison Police Citizen Advisory Committee. Positions 2, 4 and 6 are open. I'll be scheduling interviews after the application deadline.
- Great turnout for the Eggstravaganza on Saturday despite the rain. Many parents were appreciative for the safe event and having their kids' pictures taken with the Easter Bunny. Thanks to the Parks and Recreation Department for providing the event for families.

- Madison City Schools and Partnership for a Drug-Free Community are hosting a meeting 'Fentanyl and Teens' tomorrow night from 6-8pm at the district central offices on Celtic Drive.

COUNCIL DISTRICT NO. 7 JOHN SEIFERT

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

- The next Planning Commission meeting is scheduled for Thursday, April 13 at 5:30pm in the Council Chambers.
- Attended the Trash Panda's Opening Day game April 6th at Toyota Field and was amazed to see the growth of businesses in surrounding areas and how future growth will impact the city.

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.

RESOLUTION NO. 2023-140-R: REQUEST FOR A LOUNGE RETAIL LIQUOR - CLASS II (PACKAGE) LICENSE FROM JAY JOGNI INC., DOING BUSINESS AS BALCH ROAD SPIRITS, FOR THEIR LOCATION AT 513 BALCH ROAD SUITE B.

Revenue Officer Ivon Williams informed Council that this is a new request for this location as the business has new owners and added that everything is in order for Council action. Council President Bartlett opened the floor for public comments regarding this request. There being none, she then closed the floor and entertained a motion from Council. Council Member Shaw moved to approve Resolution No. 2023-140-R. Council Member Wroblewski seconded. 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	Aye

Motion carried.

RESOLUTION NO. 2023-141-R: REQUEST FOR AN OFF-PREMISES BEER AND WINE LICENSE FROM JAY JOGNI INC., DOING BUSINESS AS BALCH ROAD SHELL, FOR THEIR LOCATION AT 513 BALCH ROAD.

Revenue Officer Ivon Williams informed Council that this is a new request for this location as the business has new owners and added that everything is in order for Council action. Council President Bartlett opened the floor for public comments regarding this request. There being none, she then closed the floor and entertained a motion from Council. Council Member Shaw moved to approve Resolution No. 2023-141-R. Council Member Wroblewski seconded. 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	Aye

Motion carried.

DEPARTMENTAL REPORTS

CITY CLERK

RESOLUTION NO. 2023-136-R: AUTHORIZING ELECTION OFFICIALS FOR MAY 9TH COUNCIL-MANAGER BALLOT MEASURE

City Clerk-Treasurer Lisa D. Thomas addressed the City Council on one correction for District 4 as one of the poll workers was unable to work and have since been removed. City Clerk-Treasurer Lisa D. Thomas advised City Council that the polling location is still functional with the number of poll worker that they have. Council President Bartlett asked which name was removed. City Clerk-Treasurer Lisa D. Thomas advised it was Esther Findlay and she was replaced with an alternate. Council President Bartlett asked if corrections were made to the documents on the published packet. City Clerk-Treasurer Lisa D. Thomas advised Ms. Findlay's name is still on the published packet but has been removed since being notified that Ms. Findlay is unable to work.

Council Member Wroblewski moved to approve Resolution No. 2023-136-R. Council Member Spears seconded. The 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	Aye

Motion carried.

Mayor Finley wanted to thank all the volunteers and asked if all will have training with Judge Barger. City Clerk-Treasurer Lisa D. Thomas advised that on April 26th there will be 3 sessions. City Clerk-Treasurer Lisa D. Thomas expressed with confidence and pride that all election workers have chosen a time to appear for training and we have submitted their names to the Probate Judge.

ENGINEERING

PROPOSED ORDINANCE NO. 2023-099: AUTHORIZING THE TRANSFER OF CITY PROPERTIES AND GRANTING OF UTILITY EASEMENTS TO MADISON UTILITIES IN RELATION TO THE CURRENT WESTERN TRANSMISSION MAIN PROJECT (FIRST READING 03/13/2023)

Council Member Powell moved to approve Ordinance No. 2023-099. Council Member Spears seconded. The 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	Aye

Motion carried.

RESOLUTION NO. 2023-135-R: AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH STRAND ASSOCIATES, INC. FOR ENGINEERING DESIGN SERVICES ON PROJECT 23-004 (HUNTSVILLE BROWNS FERRY 3-LANE WIDENING FROM HOLLADAY BOULEVARD TO OAKLAND CHURCH) IN AN AMOUNT NOT TO EXCEED \$113,800.00 (TO BE PAID FROM ENGINEERING DEPARTMENT BUDGET)

Council Member Powell moved to approve Resolution No. 2023-135-R. Council Member Spears seconded. Council Member Denzine questioned why the master plan calls for four lane road and we are only putting in a three lane at this time. Mayor Finley replied that funds were unavailable when the master plan was initiated for four lanes, but that in the future with the help of County Commissioner Mac McCutcheon, Metropolitan Planning Organization (MPO), and the State, there might be more support to do the fourth lane in the future. Mayor Finley added that traffic calls for the city to expand the road for better throughput and that is why they are going ahead with three lanes. Council Member Denzine asked if it makes sense financially to go ahead and do three lanes and then have to change it to four when we get more funding. City Engineer Michael Johnson responded that projects with the MPO can be years and years before they are funded and that what they are trying to do from Holladay Boulevard to the beginning of Bellawood is create some turn lanes and make line them up to make them continuous and widen the crossing. Mayor Finley asked if they were to receive funding in the future from MPO would they be able to use three lanes they will already have in place to go to four lanes instead of taking them down. City Engineer Michael Johnson responded that they would incorporate the three lanes into the four lanes. Council Member Denzine asked City Engineer Michael Johnson if he was aware that the four lanes were in the

Master Plan. City Engineer Michael Johnson responded that he was aware it was in the Master Plan but that he knew there was no funding set aside for it before they got to this point. Council Member Spears stated at this point it will improve the quality of life for citizens who live off that road by allowing a left lane for turning instead of blocking the whole road causing a backup. Council Member Denzine stated she is not opposed to this project she was concerned why it is 3 lanes instead of 4. Council Member Powell stated funding was limited.

The 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	Aye

Motion carried.

PLANNING

PROPOSED ORDINANCE NO. 2023-118: VACATION OF PORTIONS OF TWO UTILITY AND DRAINAGE EASEMENTS LOCATED WITHIN 3 PARK PRESERVE SUBDIVISION (FIRST READING 03/27/2023)

Council Member Spears moved to approve Ordinance No. 2023-118. Council Member Shaw seconded. The 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	Aye

Motion carried.

PROPOSED ORDINANCE NO. 2023-123: DECLARING SURPLUS AND CONVEYING IA AND IB COMMON AREAS PROPERTY TO HERITAGE HILLS ASSOCIATION DUE TO SCRIVENER'S ERROR (FIRST READING 03/27/2023)

Council Member Shaw moved to approve Ordinance No. 2023-123. Council Member Powell seconded. The 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	Aye

Motion carried.

PROPOSED ORDINANCE NO. 2023-137: VACATION OF A PORTION OF AN OPEN EASEMENT LOCATED WITHIN LOTS 1-26 OF ACADIA AT ARLINGTON PARK SUBDIVISION (FIRST READING)

This is a first reading only

PROPOSED ORDINANCE NO. 2023-138: VACATION OF A PORTION OF A UTILITY AND DRAINAGE EASEMENT LOCATED WITHIN THE HEIGHTS AT TOWN MADISON SUBDIVISION (FIRST READING)

This is a first reading only

POLICE

PROPOSED ORDINANCE NO. 2023-085: REGULATING WRECKER SERVICES AND TOWING OPERATIONS (FIRST READING 03/27/2023)

Council Member Shaw moved to approve Ordinance No. 2023-085. Council Member Denzine seconded. The 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	Aye

Motion carried.

PROPOSED ORDINANCE NO. 2023-124: AMENDING CHAPTER 22, ARTICLE VII, SECTIONS 192 AND 201(A) OF THE CITY CODE CHANGING NOTICE/REMOVAL OF INOPERABLE VEHICLES FROM A SEVEN-DAY PERIOD TO 48 HOURS (FIRST READING 03/27/2023)

Council Member Spears moved to approve Ordinance No. 2023-124. Council Member Wroblewski seconded. Council Member Siefert asked for clarification on what puts a vehicle in this category. Police Chief Johnny Gandy stated vehicles parked on city streets without registered tags, missing a tire, up on blocks, or if the vehicle is clearly inoperable or abandoned. Council Member Wroblewski also affirmed that she had seen on a vehicle a tag in the driver's side window issued from Code Enforcement and appreciates the 48-hour time frame for removal. Police Chief Johnny Gandy replied if a vehicle is on a city street, police will do the tagging and document the time the vehicle will be removed so proper notification is given to the owner. The 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	Aye

Motion carried.

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	Aye

Motion carried.

The meeting was adjourned at 7:08 p.m.

Minutes No. 2023-07-RG, dated April 10, 2023, read, approved and adopted this 24th day of April 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

**PROCLAMATION
NATIONAL DAY OF PRAYER**

WHEREAS, The 72nd observance of the National Day of Prayer will be held on Thursday, May 4, 2023, with the theme “Pray Fervently in Righteousness and Avail Much”, based on James 5:16B which says “The effective fervent prayer of a righteous man availeth much”; and

WHEREAS, A National Day of Prayer has been part of our national heritage since it was declared by the First Continental Congress in 1775 and the United States Congress in 1952 approved as a Joint Resolution, “That the President shall set aside and proclaim a suitable day each year, other than a Sunday, as a National Day of Prayer, on which the people of the United States may turn to God in prayer and meditation in churches, in groups and as individuals”; and

WHEREAS, The United States Congress, in 1988 by Public Law 100-307, as amended, establishes, “An act to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated,”; and

WHEREAS, Leaders and citizens of our communities, cities, states and nation are afforded the privilege of prayer with the joy of seeking divine guidance, strength, protection and comfort from Almighty God; and

WHEREAS, Recognizing the love of God, we, citizens of Madison, treasure the freedom to gather in prayer, exercising reliance on God’s power in the face of present challenges and threats, asking for His blessing on every individual of our city

NOW, THEREFORE,

I, Paul Finley, Mayor of the City of Madison, Alabama do hereby proclaim the day of

May 4, 2023

as

NATIONAL DAY OF PRAYER

in the City of Madison, Alabama and I commend this observance to all of our citizens.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Madison, Alabama to be affixed, this 24th day of April, 2023.

Paul Finley, Mayor



City of Madison, Alabama

Capital Assets

Disposal Form

Capital Assets Tag No. 03828
(Existing Assets Number)

Date: 4/18/2023 Department: Senior Center
 Item Description: 2001 GCII Gashen Body Bus / E-450 Super Duty
 Serial/Model #: 1FDXE45521HB13769 New: Used:
 Location: Madison Public Works Vendor Name: National Bus Sales & Leasing Inc
 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)

4/18/2023
Date:

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

(Below this line)

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.

RESOLUTION NO. 2023-154-R

**PROVIDING FOR THE DISPOSITION OF PERSONAL PROPERTY OF
NEGLIGIBLE VALUE PURSUANT TO SECTION 16-108 OF CODE OF
ORDINANCES OF THE CITY OF MADISON**

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

QUANTITY	DESCRIPTION	MILEAGE
1	2001 GCII Goshen Body Bus/E-450 Super Duty	149137

;and

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 24th day of April 2023.

ATTEST:

Ranae Bartlett, City Council President
City of Madison, Alabama

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

APPROVED this ___ day of April 2023.

Paul Finley, Mayor
City of Madison, Alabama

Ship To
Engineering Department
City of Madison
100 Hughes Road
Madison, AL 35758

Bill To
Accounts Payable
City of Madison
100 Hughes Road
Madison, AL 35758

Purchase Order
No. 2022-00001151
DATE 08/04/2022

VENDOR 3646 - Barge Design Solutions, Inc.

This purchase is tax exempt for the City of Madison under State of Alabama law no.40-23-4(11)

NON-NEGOTIABLE

Contact
Barge Design Solutions, Inc.
615 3rd Ave. S., Suite 700
NASHVILLE, TN 37210



DELIVER BY
SHIP VIA
FREIGHT TERMS
PAGE 1 of 1

REFERENCE # Res. 2022-93-R, Res.2020-279-R

QUANTITY	UNIT	DESCRIPTION	UNIT COST	TOTAL COST
1.0000	Each	*Item - 19-047, CN and CE&I for ATRP2-45-2020-327 39-150-000-2955-40 - Project - Wall-Triana & I-565 Intersection Improvements 185,584.96 19 047	185,584.9600	\$185,584.96
<p>Partial Payment # 10 rlno # 209539 Amt \$ 13,984.52</p> <p>E. Michelle Dunson 4/10/2023</p>				
			TOTAL DUE	\$185,584.96

Roger Bellomy/wcc 2022-08-04
T13:10:49-05:00

Purchasing Agent Signature

Special Instructions

Council Consent Agenda 4/24/23.

1. Purchase order numbers must appear on invoices and shipping labels
2. No consolidated statements will be paid
3. No invoices will be processed without a purchase order number
4. All bills must be sent to Accounts Payable
5. Notify immediately if unable to ship by date specified
6. Substitutes must be approved
7. This is your authority as supplier to deliver the items listed above

CITY OF MADISON, ALABAMA

2015-A
BOND PAYMENT
REQUISITION FORM

TO:
Pay to the order of (vendor): Barge Design Solutions, Inc.

Vendor Number: 3646

A requisition and payment request is hereby requested for the payment of \$ 185,584.96
to the above listed vendor.

FOR: Requisition from Construction Fund for the Series 2015-A Improvements.

Explanation of what requisition is paying for:

Project Name: Wall Triana and I-565 Intersection Improvements

Project Number: 19-047

Professional construction, engineering and inspection services for the ATRP2-45-2020-327 project for Wall Triana and I-565 Intersection Improvements (City Project #19-047). Approved by Res. 2022-93-R on March 28, 2022.

This is a public City project and proceeds from the 2015-A Bond issue can be used to pay for these professional services.

By signing below, the undersigned representatives of the City of Madison (the "City") hereby certify as follows:

(1) The purpose for which such payment is to be made has been authorized in the ordinance authorizing the issuance of the Series 2015-A Warrants and complies in all respects with Section 6.01(c) and 6.01(f) of said ordinance and the Non-Arbitrage Certificate dated May 5, 2015.

(2) The City is not paying for an expense heretofore incurred with respect to the Series 2015-A Improvements prior to March 25, 2015, except as otherwise permitted in Treasury Reg. 1.150-2.

This 23rd day of August, 2022.

CITY OF MADISON

By [Signature]
Department Head (signature of department making request)

And

By [Signature]
Its Mayor - Paul Finley (signature)

And

By [Signature]
Its Finance Director - Roger D. Bellomy (signature)

RECEIVED

APR 10 2023



CITY OF MADISON
ENGINEERING DEPARTMENT

200 Clinton Avenue, Suite 800, Huntsville, Alabama 35801

Sheet: 1 of 1
Project Number: 3604304
Invoice Date : 4/7/2023
Billing: 10
Invoice No.: 209539
Dates: 2/25/2023-3/31/2023
PO No.: 2022-00001151

Project Name : Wall Triana ATRIPII CEI

DIRECT LABOR

EMPLOYEE	TITLE	RATE/HOUR	TOTAL HOURS/QTY	AMOUNT	Multiplier (OH/Profit/FCC)	TOTAL AMOUNT
Atkerson, Julia	Administrator	28.10	0.00	0.00	3.41	0.00
Bissott, Gregg	Proj. Mgr.	76.99	0.00	0.00	3.41	0.00
Canady, Raymond	Proj. Mgr.	50.69	0.00	0.00	3.41	0.00
Elder, Davon	Engineer	38.47	0.00	0.00	3.41	0.00
Elder, Davon	Engineer	40.40	0.00	0.00	3.41	0.00
Glass, Jeffrey	Proj. Mgr.	80.78	23.00	1,857.94	3.41	6,335.58
Hale, Lydia	Administrator	23.38	1.00	23.38	3.41	79.73
Kimbrel, Jessica	Administrator	29.11	0.00	0.00	3.41	0.00
Kimbrough, Jack	Engineer	67.31	0.00	0.00	3.41	0.00
Kimbrough, Jack	Engineer	77.66	2.00	155.32	3.41	529.64
Meredith, Weston	Engineer	30.45	8.50	258.83	3.41	882.61
Minor, Calvin	Const. Rep.	32.00	40.00	1,280.00	2.38	3,046.40
Minor, Calvin	Const. Rep.	48.00	0.00	0.00	2.38	0.00
Underhill, Curtis	Const. Rep.	33.87	26.00	880.62	2.38	2,095.88
Yates, Maleiha	Engineer	32.30	4.50	145.35	2.38	345.93
Subtotal			105.00	\$4,601.44		
TOTAL						<u>\$13,315.76</u>

DIRECT COSTS

<u>Transportation-Mileage</u>		0	0.625	\$0.00
		1021	0.655	\$668.76
TOTAL		1021		<u>\$668.76</u>

OTHER COSTS

Consultants	ALDOT		X1.05	\$0.00
TOTAL				<u>0.00</u>

AMOUNT REQUESTED THIS STATEMENT

\$13,984.52

Ceiling Summary

Project Fee	\$185,584.96
Billed To Date	131,182.81
Balance	<u>\$54,402.15</u>
Percent Used	70.69%

E. Michelle Dunson
4/10/2023



April 13, 2023

Michelle Dunson, P.E.
Deputy Director
The City of Madison Engineering Department
100 Hughes Rd.
Madison, AL 35758

Re: Project No. 20-028 Garner St. Extension Phase 2

Ms. Dunson,

Enclosed please find Estimate No. 16 for Wiregrass Construction Company, Inc. in the amount of \$36,362.39. This estimate covers all work performed from March 1, 2023 to March 31, 2023.

If you have any questions feel free to contact me.

Sincerely,

Sam Cole
Project Manager
Morell Engineering, Inc.

E. Michelle Dunson
4/17/23

RECEIVED
APR 13 2023
CITY OF MADISON
ENGINEERING DEPARTMENT



Morell Engineering, Inc.
Contractor Payment Summary Report

Estimate No: 16
Project No: 21-0396
Client: City of Madison
Contractor: Wiregrass Construction Company, Inc.
Description: Access Improvements for New Journey Middle School
Calendar Days: 448
Days Charged: 446
County: Madison
Contract Complete: November 24, 2022
Target Completion: 100%
Percent Time Used: 89%
Percent Complete:

Item Code	Description	Bid Qty	Unit	Unit Price	This Month (March 2023) Qty	This Month (March 2023) Amount	To Date Qty	To Date Amount	Percent Complete
1	Category: 1								
2	Garner St. Phase 2								
1	MOBILIZATION (5% OF BID MAXIMUM)	1	LS	\$91,895.60	0	\$0.00	1	\$91,895.60	100%
2	ALDOT SILT FENCE	5300	LF	\$3.87	0	\$0.00	3139	\$12,147.93	59%
3	RIP RAP CHECK DAM	50	TON	\$48.97	0	\$0.00	0	\$0.00	0%
4	ROCK PIPE OUTLET PROTECTION	50	TON	\$54.99	0	\$0.00	23.69	\$1,302.71	47%
5	STORM INLET SILT BARRIER	20	EA	\$552.91	0	\$0.00	0	\$0.00	0%
6	DITCH INVERT NETTING, ALDOT C4	5300	SF	\$0.55	0	\$0.00	5300	\$2,915.00	100%
7	TREE REMOVAL OVER 6"	20	EA	\$527.24	0	\$0.00	20	\$10,544.80	100%
8	TREE REMOVAL UNDER 6" AND OTHER VEGETATION	5000	SY	\$1.28	0	\$0.00	5000	\$6,400.00	100%
9	CONCRETE SIDEWALK REMOVAL	60	SY	\$19.80	0	\$0.00	51	\$1,009.80	85%
10	CONCRETE CURB AND GUTTER REMOVAL	870	LF	\$5.78	0	\$0.00	689	\$3,982.42	79%
11	ASPHALT PAVEMENT REMOVAL	2400	SY	\$5.07	0	\$0.00	2048.6	\$10,386.40	85%
12	STORM PIPE REMOVAL	300	LF	\$19.97	0	\$0.00	20	\$399.40	7%
13	STORM STRUCTURE TOP REMOVAL	2	EA	\$240.23	0	\$0.00	2	\$480.46	100%
14	STORM PIPE END TREATMENT REMOVAL	2	EA	\$240.23	0	\$0.00	2	\$480.46	100%
15	CONCRETE ROAD HEADER REMOVAL	70	LF	\$9.32	0	\$0.00	41	\$382.12	59%
16	ADJUST SSMH TO NEW GRADE	5	EA	\$865.76	0	\$0.00	1	\$865.76	20%
17	ADJUST UTILITY BOXES TO NEW GRADE	5	EA	\$552.91	0	\$0.00	0	\$0.00	0%
18	RELOCATE STREET LIGHT	1	EA	\$8,293.66	0	\$0.00	1	\$8,293.66	100%
19	STRIP AND STOCKPILE TOPSOIL	6000	CY	\$7.76	0	\$0.00	1448.42	\$11,239.74	24%
20	UNCLASSIFIED EXCAVATION	10000	CY	\$10.78	0	\$0.00	10000	\$107,800.00	100%
21	BORROW FILL	1000	CY	\$18.48	0	\$0.00	0	\$0.00	0%
22	SPREAD TOPSOIL	14000	SY	\$1.64	0	\$0.00	14000	\$22,960.00	100%
23	SOD	3500	SY	\$5.53	0	\$0.00	2818.3	\$15,585.20	81%
24	HYDROSEED	10500	SY	\$1.00	0	\$0.00	10500	\$10,500.00	100%
25	RETAINING WALL (OWNER-SUPPLIED MATERIAL--CONTRACTOR TO INCLUDE INSTALLATION COSTS	1260	SF	\$23.82	0	\$0.00	1236.57	\$29,455.10	98%
26	8" DI PIPE	2410	LF	\$67.89	0	\$0.00	2102	\$142,704.78	87%
27	8" DI 45 DEG FITTING	7	EA	\$876.74	0	\$0.00	7	\$6,137.18	100%
28	8" DI 90 DEG FITTING	2	EA	\$882.50	0	\$0.00	0	\$0.00	0%
29	8" DI TEE	6	EA	\$1,733.59	0	\$0.00	3	\$5,200.77	50%
30	8" GATE VALVE	6	EA	\$2,478.69	0	\$0.00	5	\$12,393.45	83%

Morell Engineering, Inc.
Contractor Payment Summary Report

Item #	Description	QTY	UNIT	UNIT PRICE	TOTAL PRICE	PAID	REMAINING	PERCENT
31	16" STEEL CASING UNDER PAVEMENT	80	LF	\$118.68	\$9,494.40	\$0.00	\$9,494.40	0%
32	FIRE HYDRANT ASSEMBLY	4	EA	\$7,268.84	\$29,075.36	\$0.00	\$29,075.36	100%
33	BLOWOFF VALVE ASSEMBLY	2	EA	\$1,544.51	\$3,089.02	\$0.00	\$3,089.02	100%
34	CONNECT TO EXISTING MAIN	4	EA	\$4,557.19	\$18,228.76	\$0.00	\$18,228.76	100%
35	DISINFECT AND FLUSH NEW MAINS	2	EA	\$1,935.19	\$3,870.38	\$0.00	\$3,870.38	100%
36	18" RCP	408	LF	\$71.45	\$29,151.60	\$0.00	\$29,151.60	100%
37	18" RCP FES	4	EA	\$1,357.76	\$5,431.04	\$0.00	\$5,431.04	100%
38	45X73 ARCP	48	LF	\$345.77	\$16,596.96	\$0.00	\$16,596.96	100%
39	45X73 ARCP FES	2	EA	\$6,315.91	\$12,631.82	\$0.00	\$12,631.82	100%
40	GRATE INLET	6	EA	\$2,140.41	\$12,842.46	\$0.00	\$12,842.46	100%
41	GRATE INLET OVER EXISTING PIPE	6	EA	\$2,140.41	\$12,842.46	\$0.00	\$12,842.46	100%
42	YARD INLET	2	EA	\$1,830.00	\$3,660.00	\$0.00	\$3,660.00	100%
43	SINGLE WING S-INLET	2	EA	\$5,760.73	\$11,521.46	\$0.00	\$11,521.46	100%
44	JUNCTION BOX	1	EA	\$1,941.82	\$1,941.82	\$0.00	\$1,941.82	100%
45	MODIFY EXISTING STORM STRUCTURE TO YARD INLET	2	EA	\$4,854.78	\$9,709.56	\$0.00	\$9,709.56	100%
46	EXTEND EXISTING PIPE THROUGH RETAINING WALL	2	EA	\$1,423.06	\$2,846.12	\$0.00	\$2,846.12	100%
47	#57 OR #78 STONE BACKFILL	510	TON	\$30.63	\$15,623.70	\$0.00	\$15,623.70	99%
48	2 FT CONCRETE CURB AND GUTTER	1200	LF	\$18.80	\$22,560.00	\$0.00	\$22,560.00	96%
49	5 FT WIDE CONCRETE SIDEWALK	600	SF	\$8.58	\$5,148.00	\$0.00	\$5,148.00	100%
50	8 FT WIDE CONCRETE SIDEWALK	160	SF	\$7.96	\$1,273.60	\$0.00	\$1,273.60	82%
51	10 FT WIDE CONCRETE SIDEWALK	1200	SF	\$7.33	\$8,796.00	\$0.00	\$8,796.00	0%
52	5 FT H/C DETECTABLE WARNING STRIP	2	EA	\$129.26	\$258.51	\$0.00	\$258.51	200%
53	10 FT WIDE H/C DETECTABLE WARNING STRIP	1	EA	\$258.51	\$258.51	\$0.00	\$258.51	0%
54	8 FT WIDE H/C DETECTABLE WARNING STRIP	2	EA	\$258.51	\$517.02	\$0.00	\$517.02	100%
55	CRUSHED AGGREGATE BASE	10300	TON	\$29.70	\$306,415.49	\$0.00	\$306,415.49	100%
56	ASPHALT PAVEMENT MILLING	1500	SY	\$6.53	\$9,795.00	\$0.00	\$9,795.00	90%
57	ASPHALT CONCRETE BINDER LAYER LEVELING	200	TON	\$107.00	\$21,400.00	\$0.00	\$21,400.00	26%
58	ASPHALT CONCRETE BINDER LAYER	3500	TON	\$68.00	\$238,000.00	\$0.00	\$238,000.00	75%
59	ASPHALT CONCRETE WEARING SURFACE	2600	TON	\$96.00	\$249,600.00	\$0.00	\$249,600.00	80%
60	WOOD GUARDRAIL	1850	LF	\$105.05	\$194,342.50	\$0.00	\$194,342.50	100%
61	ITEM #61 HAS BEEN DELETED							
62	REDI ROCK FREE STANDING WALL AT CULVERT HEADWALL (CONTRACTOR MUST SUPPLY MATERIAL FOR THIS ITEM)	160	LF	\$108.74	\$17,400.00	\$0.00	\$17,400.00	81%
63	SOLID WHITE TRAFFIC STIPING	11100	LF	\$0.83	\$9,213.00	\$0.00	\$9,213.00	78%
64	DOTTED WHITE TRAFFIC STRIPING	150	LF	\$1.11	\$166.50	\$0.00	\$166.50	33%
65	SOLID YELLOW TRAFFIC STRIPING	11100	LF	\$0.83	\$9,213.00	\$0.00	\$9,213.00	99%
66	BROKEN YELLOW TRAFFIC STRIPING	300	LF	\$0.55	\$165.00	\$0.00	\$165.00	0%
67	TRAFFIC LEGENDS WHITE	850	SF	\$5.53	\$4,701.50	\$0.00	\$4,701.50	74%
68	TRAFFIC LEGENDS YELLOW	100	SF	\$5.53	\$553.00	\$0.00	\$553.00	0%
69	WHITE TYPE 1A RPM	250	EA	\$5.53	\$1,382.50	\$0.00	\$1,382.50	2%
70	YELLOW TYPE 2D RPM	100	EA	\$5.53	\$553.00	\$0.00	\$553.00	100%

Morell Engineering, Inc.
Contractor Payment Summary Report

Item Code	Description	Unit Price	Estimate Total	To Date Total	Percent Complete
71	STOP SIGN, R1-1, 30X30	\$387.04	\$0.00	\$3,096.32	100%
72	SPEED LIMIT SIGN, R2-1, 24X30	\$387.04	\$0.00	\$774.08	100%
73	STREET NAME SIGN	\$193.52	\$0.00	\$2,322.24	100%
74	ALL WAY SIGN, R1-4, 18X6	\$82.94	\$0.00	\$331.76	100%
75	ROAD CLOSED R11-2, 48X30	\$121.64	\$0.00	\$364.92	50%
76	ALDOT TYPE 3 BARRICADES	\$304.10	\$0.00	\$1,824.60	50%
77	FINAL CLEAN-UP AND DEMOBILIZATION (2% BID)	\$36,758.24	\$0.00	\$36,758.24	100%

Totals for Category **\$1,989,777.74** **Estimate Total:** **\$0.00** **To Date Total:** **\$1,705,535.02**

Item Code	Description	Bid Qty	Unit	Unit Price	This Month (March 2023) Qty	Amount	To Date Qty	Amount	Percent Complete
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Category: 2 Description: Change Order One

79	UNDERCUT	6700	CY	\$23.00	0	\$0.00	6475	\$148,925.00	97%
80	SURGE STONE	10500	TON	\$33.50	0	\$0.00	10500	\$351,750.00	100%
81	FILTER FABRIC	21000	SY	\$1.85	0	\$0.00	21000	\$38,850.00	100%
82	GI-19 MODIFICATION	1	EA	\$859.59	0	\$0.00	1	\$859.59	100%
83	GI-20 MODIFICATION	1	EA	\$859.59	0	\$0.00	1	\$859.59	100%
84	GI-22 MODIFICATION	1	EA	\$2,140.41	0	\$0.00	1	\$2,140.41	100%
85	GI-23 MODIFICATION	1	EA	\$2,140.41	0	\$0.00	1	\$2,140.41	100%
86	GI-25 MODIFICATION	1	EA	\$859.59	0	\$0.00	1	\$859.59	100%
87	GI @ 35+00	1	EA	\$2,140.41	0	\$0.00	1	\$2,140.41	100%
88	GI @31+75	1	EA	\$2,140.41	0	\$0.00	1	\$2,140.41	100%
89	MODIFY S-INLET	1	EA	\$4,854.78	0.5	\$2,427.39	1	\$4,854.78	100%
90	18" RCP	128	LF	\$71.45	0	\$0.00	94	\$6,716.30	73%
91	18" RCP FES	2	EA	\$1,357.76	0	\$0.00	2	\$2,715.52	100%
92	ROCK PIPE OUTLET PROTECTION	10	TON	\$54.99	0	\$0.00	0	\$0.00	0%
93	8" DI PIPE	200	LF	\$67.89	0	\$0.00	60	\$4,073.40	30%
94	8" DI 45 DEG FITTING	2	EA	\$876.74	0	\$0.00	2	\$1,753.48	100%
95	8" DI TEE	1	EA	\$1,733.59	0	\$0.00	0	\$0.00	0%
96	8" GATE VALVE	2	EA	\$2,478.69	0	\$0.00	1	\$2,478.69	50%
97	CONNECT TO EXISTING MAIN	1	EA	\$4,557.19	0	\$0.00	1	\$4,557.19	100%
98	6"x8" REDUCER	1	EA	\$1,250.00	0	\$0.00	2	\$2,500.00	200%
99	16"x8" CASING SPACERS	4	EA	\$187.50	0	\$0.00	4	\$750.00	100%

Totals for Category **Total Bid:** **\$601,685.85** **Estimate Total:** **\$2,427.39** **To Date Total:** **\$581,064.77**

Morell Engineering, Inc.
Contractor Payment Summary Report

Item Code	Description	Bid Qty	Unit	Unit Price	This Month (March 2023)		To Date	Percent Complete
					Qty	Amount		
Category: 3 Contingency		1	EA	\$50,000.00				254%
7c	TREE REMOVAL OVER 6" OVERRUN	20	EA	\$527.24	0	\$0.00	\$23,725.80	225%
38c	45X73 ARCP	48	EA	\$345.77	0	\$0.00	\$2,766.16	17%
81c	FILTER FABRIC	21000	SY	\$1.85	0	\$0.00	\$1,327.84	3%
27c	8" DI 45 DEG FITTING	7	EA	\$876.74	0	\$0.00	\$1,753.48	29%
100	CONCRETE VALLEY GUTTER	40	LF	\$45.00	0	\$0.00	\$1,665.00	93%
18c	RELOCATE STREET LIGHT (CREDIT)	1	EA	\$8,293.66	0	\$0.00	-\$500.00	-6%
6c	DITCH INVERT NETTING, ALDOT C4	5300	SF	\$0.55	0	\$0.00	\$326.70	11%
24c	HYDROSEED	10500	SY	\$1.00	0	\$0.00	\$342.69	3%
49c	5 FT WIDE CONCRETE SIDEWALK	600	SF	\$8.58	0	\$0.00	\$3,088.80	60%
60c	WOOD GUARDRAIL	1850	LF	\$105.05	0	\$0.00	\$1,155.55	1%
80c	SURGE STONE	10500	TON	\$33.50	0	\$0.00	\$4,871.91	1%
20c	UNCLASSIFIED EXCAVATION	10000	CY	\$10.78	0	\$0.00	\$1,267.84	1%
101	CONCRETE BARRIER WALL	1	LS	\$67,870.00	0.5	\$33,935.00	\$67,870.00	100%
22c	SPREAD TOPSOIL	14000	SY	\$1.64	0	\$0.00	\$16,954.81	74%
70c	YELLOW TYPE 2D RPM	100	EA	\$5.53	0	\$0.00	\$193.55	35%
Totals for Category					Estimate Total:	\$33,935.00	To Date Total:	\$126,810.12

Category	Description	Category Total	To Date Total
1	Garner St. Phase 2	\$0.00	\$1,705,535.02
2	Change Order One	\$2,427.39	\$581,064.77
3	Contingency	\$33,935.00	\$126,810.12
Retention	5% Retention	\$0.00	\$65,763.38
Grand Total for Estimate: 16		\$36,362.39	\$2,347,646.54

Total: \$2,413,409.91
Less Previous Payments: \$2,311,284.15
Retention: \$65,763.38
Amount Payable: \$36,362.39

ORDINANCE NO. 2023-076

NATIONAL RETAIL DEVELOPMENT, LLC'S REQUEST TO AMEND THE OFFICIAL ZONING ORDINANCE REVISING ARTICLE V, SECTION 5-15-1, MINIMUM SPACE REQUIREMENT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADISON, ALABAMA, THAT SECTION 5-15-1 SHOWN BELOW IS AMENDED AS FOLLOWS:

Section 5-15-1. Minimum Space Requirement

Each and every separate individual store, office, manufacturing establishment, or other business shall be provided with off-street parking facilities as specified below unless this Ordinance makes specific provision to the contrary.

Uses	Parking Spaces Required (Min)	Parking Spaces Allowed (Max)
Residential Uses		
Assisted Living Facilities	0.5/bed	1/bed
Continued Care Retirement Community	1/independent living unit bed plus 0.5/other beds	2/bed
Dwellings, Accessory	1/unit	2/unit
Dwelling, Live/Work	1/unit	No max
Dwelling, Multi-family	1/unit plus 0.5 space/unit for guest parking	3/unit (including guest parking)
Dwelling, Single-Family Attached	2/unit	No max
Dwelling, Single-family Detached	2/unit	No max
Dwellings, Upper Floor in B1	1/unit	2/unit
Mobile Homes (Park/Subdivision)	2/unit	No max
Public/Quasi Public Uses		
Conference, Convention, Meeting Centers	1/1,000 sq. ft.	1/250 sq. ft.
Civic uses and government buildings	1/1,000 sq. ft.	1/250 sq. ft.
Parks, recreation, and open space areas	No min	No max
All utilities	No min	No max
Commercial Uses		
Accommodations and all overnight lodging (bed and breakfast, hotel, motel, boarding rooms, etc.)	1/room plus 1/manager or owner's room	1.5/room plus 1/manager or owner's room
All day care facilities (child and adult)	2/childcare room plus 1/office	No max
Indoor entertainment venues	1/500 sq. ft.	1/250 sq. ft.
Outdoor entertainment venues	1/500 sq. ft. of indoor area plus 2/1,000 sq. ft. of outdoor area	1/250 sq. ft. of indoor area plus 3/1,000 sq. ft. of outdoor area
All medical facilities (hospitals, clinics, surgery centers, and urgent care facilities)	1/500 sq. ft.	1/250 sq. ft.

Mini Storage Facilities and Self-Service Storage Facilities	1 / 7,500 sq. ft. of storage facility and support office	No max
Office and professional space	1/300 sq. ft.	No max
Schools (K-8)	2/classroom	No max
School (9-12, College, Vocational)	2/classroom	No max
Religious assembly	1/every 4 seats (8 ft. of bench)	1/every 2 seats (4 ft. of bench)
All eating and drinking establishments	1/100 sq. ft.	No max
Retail sales and Services	1/300 sq. ft.	1/150 sq. ft.
Furniture and appliance stores	1/500 sq. ft.	1/250 sq. ft.
All vehicle sales and rentals	1/1,000 sq. ft. of indoor & outdoor sales display area	1/500 sq. ft.
Industrial Uses		
All manufacturing and distribution	1/1,000 sq. ft.	1/350 sq. ft.
All research and development	1/500 sq. ft.	1/350 sq. ft.
All vehicle service and repair	1/500 sq. ft.	1/350 sq. ft.
Warehouse and storage	1/1,500 sq. ft.	No max.
Waste-related services	1/1,000 sq. ft.	No max.
Other Uses		
Agriculture (not associated with a commercial use)	No min	No max
Transit facilities	No min	No max

SECTION 2. Effective Date. This Ordinance shall become effective upon the final passage and adoption thereof by the City Council of the City of Madison, Alabama, and upon its publication as required by law.

SECTION 3. That this Ordinance shall become effective upon its publication in the *Madison County Record* by insertion one time in said newspaper after its adoption following a public hearing.

READ, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Madison, Alabama, this ____ day of _____, 2023.

ATTEST: _____
Ranae Bartlett, Council President
City of Madison, Alabama

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

Approved this ____ day of _____, 2023.

Paul Finley, Mayor
City of Madison, Alabama

RESOLUTION NO. 2023-133-R**A RESOLUTION AUTHORIZING AN AGREEMENT
WITH ENFINGER DEVELOPMENT, LLC FOR REIMBURSEMENT FOR
CONSTRUCTION OF A ROUNDABOUT LOCATED ON MADISON BRANCH
BOULEVARD**

WHEREAS, the City ratified Resolution No. 2021-368-R approving a development agreement with Enfinger Development, LLC (herein “the Developer”) and the City agreed by provisions of that agreement to pay for the cost of improving the existing right-of-way on Madison Branch Boulevard; and

WHEREAS, the City has since decided to install a roundabout at the intersection of Hardiman and Madison Branch Boulevard (herein “the Project”); and

WHEREAS, the City has determined that the Developer and the City’s obligations would best be served by allowing the Developer to construct the entire Project with the City reimbursing the Developer for construction of said Project; and

WHEREAS, the City has determined that reimbursing Enfinger Development, LLC for construction of the Project would serve a valid and sufficient public purpose notwithstanding any incidental benefits occurring to any other entities; to wit, those benefits bestowed on Enfinger Development, LLC; and

WHEREAS, the City has determined that reimbursing the Developer for construction of the Project will serve the public purpose of providing increased tax revenues for the City, off-site road and infrastructure improvements, employment opportunities within the City and improved traffic access in accord with the City’s Transportation Plan; and

WHEREAS, the City has published legal notice for at least seven (7) days prior to a public meeting to vote on this matter in a newspaper having the largest circulation in the City of Madison in compliance with Amendment Number 772 to the Alabama Constitution.

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that the Reimbursement Agreement is hereby authorized and approved; and

BE IT FURTHER RESOLVED that the Mayor is authorized and directed to execute and deliver the Reimbursement Agreement on behalf of the City, said Agreement to be in substantially the same form presented to the Council this date and identified as “Reimbursement Agreement,” and the City Clerk-Treasurer is hereby authorized to appropriately attest the same.

READ, PASSED, AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 24th day of April 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 April 2023.

Paul Finley, Mayor
City of Madison, Alabama

REIMBURSEMENT AGREEMENT

This **REIMBURSEMENT AGREEMENT** (this "Agreement") is hereby made and entered into on this the 24th day of April 2023 (the "Effective Date"), between the **CITY OF MADISON, ALABAMA**, a municipal corporation under the laws of the State of Alabama (the "City"), and **ENFINGER DEVELOPMENT, LLC** ("the Developer") an Alabama limited liability company (the "Company"). The City and the Company are sometimes collectively referred to as the "Parties" and, singularly, as a "Party."

RECITALS:

WHEREAS, pursuant to Resolution No. 2021-368-R, the City and the Developer entered into a Development Agreement whereby the City agreed, in part, to pay for the cost of improving the existing right-of-way adjacent to the Madison Branch Development ("the Development"); and

WHEREAS, the Development is also near the site of a new elementary school construction project; and

WHEREAS, on May 19, 2022, the City of Madison Planning Commission approved plans for a roundabout to improve access and traffic at the intersection of Hardiman Road and Madison Branch Boulevard (herein "the Project") due to the increased development in the area; and

WHEREAS, the logistics of the Project would best be served by allowing the Developer to complete the proposed Project with the City reimbursing the Developer for the cost of constructing the Project; and

WHEREAS, the Parties have determined that construction of the proposed roundabout and other necessary improvements to the right of way will cost an estimated \$1,393,898 inclusive of \$53,000 contingency costs; and

WHEREAS, the Developer has agreed to not be compensated for engineering costs, overhead nor any profit from the construction of the Project; and

WHEREAS, the Developer has requested funds from the City to help defray the costs of the required improvements, and Amendment 772 to the Constitution of Alabama (1901), recodified as Section 94.01 of the Recompiled Constitution of Alabama ("Amendment 772"), authorizes cities and counties in Alabama to lend their credit to and grant public funds and things of value in aid of or to any corporation or other business entity for the purpose of promoting economic development within their jurisdictions; and

WHEREAS, the City finds that it is necessary, wise and in the public interest to allow the Developer to complete the Project and have the City reimburse the Developer, on a monthly basis, for the cost of the Project; and

WHEREAS, the City hereby declares that the City's payment obligations hereunder are being issued and entered into pursuant in furtherance of the powers authorized under Amendment 772; and

WHEREAS, the City has further determined that the obligations of the Parties hereunder will promote economic development within the City, providing for improved traffic and access in accord with the City's Transportation Plan, create jobs, increase tax revenues within the City, promote the location, relocation, expansion and retention of commercial enterprises in the City, preserve and improve the aesthetic quality of residential development, and improve the quality of life for citizens in the City; and

WHEREAS, the City has determined that reimbursing the Developer for construction of the Project would serve a valid and sufficient public purpose notwithstanding any incidental benefits accruing to any other entities; to wit, those benefits bestowed on Enfinger Development, LLC as the Developer; and

NOW, THEREFORE, upon and in consideration of the mutual promises and covenants contained herein and for other valuable consideration, the receipt, adequacy, and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I
DEFINITIONS

1.1 Defined Terms. Each reference in this Agreement to any of the following terms shall have the meaning set forth below for each such term:

“Affiliate” means any Person directly or indirectly controlling, controlled by or under common control with the Developer.

“City Application Fees” means standard, usual and customary fees levied or assessed by the City to review and process applications for City Approvals.

“City Approvals” means standard, usual and customary permits or approvals required under City Regulations in order to develop, use and operate the Project.

“City Council” means the City Council of the City of Madison.

“City Regulations” means the Zoning Ordinance and all other ordinances, resolutions, codes, rules, regulations and policies of the City in effect as of the time in question.

“Common Control” means that two persons are both controlled by the same other Person.

“Completion Deadline” means the respective completion deadline set forth in the Construction Schedule for each component of work described in this Agreement.

“Construction Codes and Standards” means the City Regulations pertaining to or imposing life safety, fire protection, mechanical, electrical and/or building integrity requirements with respect to the design and construction of buildings and improvements, including the then current applicable building codes.

“Control” means the ownership (direct or indirect) by one Person of an interest in the profits and capital and the right to manage and control the day-to-day affairs of another Person. The term “Control” includes any grammatical variation thereof, including “Controlled” and “Controlling.”

“Force Majeure” means and includes causes which could not have been foreseen or are beyond the reasonable control of a party whose performance is interfered with and which, by the exercise of reasonable diligence, said party is unable to prevent, and which are not the result of such party’s fault, negligence, or deliberate act. Such causes include but are not restricted to, acts of the public enemy, acts of any government in either its sovereign or proprietary capacity (other than acts taken by the City in accordance with this Agreement), fires, floods, hurricanes, epidemics, quarantine restrictions, freight embargoes, or unusually severe weather (not including normal seasonal inclement weather).

“Governmental Agency” means any governmental or quasi-governmental agency (such as public utilities) having jurisdiction over, or the authority to regulate development of, the Project. As used in this Agreement, the term “Governmental Agency” does not include the City or any of the departments of the City.

“Governmental Agency Approvals” means all permits and approvals required by a Government Agency under Governmental Agency Regulations for construction, development, operation, use or occupancy of the Project.

“Governmental Agency Regulations” means the Laws, ordinances, resolutions, codes, rules, regulations, and official policies of any Governmental Agency in effect as of the time in question.

“Indemnified Parties” means the City, its elected and appointed officials, officers, employees, agents, and contractors.

“Laws” means the Constitution and laws of the State of Alabama, the Constitution of the United States, and any federal, state, county or City ordinances, codes, statutes, regulations, or executive mandates, and any court decision, State or federal, with respect thereto.

“Parties” collectively means the City and the Developer.

“Planning Commission” means the Planning Commission of the City.

“Plans and Specifications” means the final plans and specifications for the Project prepared by the Project Architect, as approved by the parties hereto.

“Project” shall have the meaning as set forth in the Recitals.

“State” means the State of Alabama and any department or agency acting on behalf of the State.

“Technical City Permits” collectively means any of the following technical permits issued by the City or any office, board, commission, department, division or agency of the City in connection with any building or improvement in the Project: (a) demolition, excavation and grading permits; (b) foundation permits; (c) permits for the installation of underground lines and facilities for Utilities; and (d) any other similar permits. “Technical City Permits” specifically excludes building permits from the City for the construction of particular buildings or improvements.

“Term” means the term of this Agreement, as determined pursuant to Article VII hereof, unless sooner Terminated as provided in this Agreement.

“Terminate” means the expiration of the Term of this Agreement, or any termination of this Agreement by any party entitled to do so by the express provisions of this Agreement. The term “Terminate” includes any grammatical variant thereof, including “Termination” or “Terminated.”

“Transfer” means the sale, assignment (as collateral or otherwise), encumbrance, transfer or hypothecation by the Developer of any of its rights, duties or obligations under this Agreement, which may be made only in accordance with the terms, standards and conditions of Article VIII of this Agreement. Transfers do not include (a) a dedication of any portion of the Development Property to the City or a Governmental Agency; or (b) any leases, subleases, licenses and operating agreements entered into in the ordinary course of business by the Developer with tenants of the Project, for occupancy of space in any buildings or improvements (together with any appurtenant tenant rights and controls customarily included in such leases or subleases), and any assignment or transfer of any such lease, sublease, license or operating agreement by either party thereto.

“Zoning Ordinance” means The Zoning Ordinance of the City of Madison, Alabama.

ARTICLE II
OBLIGATIONS OF ENFINGER DEVELOPMENT, LLC

2.1 Development of Project. (a) The Developer commits to undertake the Project in accordance with the requirements of this Agreement. The Developer shall also proceed with construction of the Project so as to be consistent with those plans previously approved by the City, the Development Agreement and all other legal requirements for construction of the Project.

(b) The City, acting by and through the City Engineer, shall review any subsequent construction plans and/or amendments to said plans for the Project in a reasonably timely manner that in no event exceeds ten (10) days and either approves the same in writing or provides suggested changes in writing (any such changes being submitted in good faith, taking into account the cost and expense of the proposed changes).

(c) The Developer will use its good faith efforts to implement the Project pursuant to the schedule provided to and approved by the City for the Project. The Project shall be implemented by the Developer and the Developer shall be solely responsible for implementation of the Project. The Developer agrees to obtain all necessary approvals and permits for the Project.

(d) The Developer agrees to commence construction on the Project as soon as practicable after this Agreement is executed by the Parties. Construction shall be deemed to commence on the date on which the Developer executes a contract with a licensed contractor to construct the Project and such contractor has commenced material physical construction activities on the Project Site.

(e) The Developer covenants that it will use its good faith efforts to construct the Project in an orderly and expeditious manner, disrupting City traffic and the surrounding neighborhood as little as possible. The Developer agrees that the Completion Date of the Project

shall occur within a reasonable amount of time within the schedule provided to the City; provided, that the obligation to complete such construction contained in this subsection (e) shall be extended for a reasonable period if the Developer's performance is delayed or prevented by reason of Force Majeure. The Developer will, to the extent that it may lawfully do so, use its best efforts to remedy, alleviate or circumvent any cause or causes preventing it from performing its agreements and covenants hereunder.

(f) The Developer has represented to the City that it has obtained, or will use good faith efforts to obtain, sufficient financial resources to complete the Project. Prior to commencing work on the Project, the Developer shall submit a proposed budget for the Project and documentation of such financial resources as may be reasonably requested by the City.

(g) The Developer shall indemnify and hold harmless the City and all of its elected and appointed officials, officers, agents, servants and employees (collectively, the "Indemnified Parties") as defined in Section 4.3.

(h) The Developer shall ensure that the contractors for the Project list the City as a beneficiary of a warranty of no less than two (2) years from the date of completion on said improvements and otherwise in form and substance satisfactory to the City.

2.2 Submission for Reimbursement. The Developer shall provide to the City verified bills, statements, and invoices establishing performance of the work and the amount due for the reimbursement. These improvements shall be dedicated exclusively for public use and not for the special benefit of or use by the Developer. Furthermore, in no event shall City funds pay for Developer's overhead, internal costs, or in any way benefit the Developer financially or constitute "private business use" under the Internal Revenue Code of 1986, as amended. The City's obligation to reimburse the Developer for the Project shall survive Termination of this Agreement.

2.3 Compliance with Laws. (a) The Company shall cause all construction activities to be conducted in compliance with all applicable laws, ordinances, rules and regulations of any governmental authority, including, without limitation, all applicable licenses, permits, building codes, restrictive covenants, zoning and subdivision ordinances and flood, disaster and environmental protection laws ("Applicable Laws"). It is expressly understood, acknowledged and agreed that approval by the City of the construction plan as herein provided shall not be deemed an approval or waiver of any compliance by the Developer or the Project with any Applicable Laws.

(b) The Company shall cause all agreements between it and any architect, contractor, subcontractor or other business performing any work in connection with the Project to require such architect, contractor, subcontractor or other business to obtain all necessary permits, licenses and approvals to construct such work. It is understood and acknowledged that the City will not waive or otherwise permit the waiver of any taxes, fees or related expenses, or fees for any permits, licenses or approvals that must be obtained from the City or any other governmental authority in connection with the Project that otherwise would be applicable.

2.4 The Developer shall dedicate the completed Project for public use, free and clear of any and all liens and mortgages. The City shall be responsible for the upkeep, maintenance and repair of the Project and related improvements upon such dedication to the City.

ARTICLE III
OBLIGATIONS OF THE CITY OF MADISON

3.1 Payments. When the Developer remits its monthly request for reimbursement, including the documentation described in Section 2.2, the City shall process said request within thirty (30) days of the submission. Payment shall be issued to the Developer no more than forty-five (45) days from the Developer's submission for monthly reimbursement for the Project.

3.2 Contingency. The parties agree that inclusive of the \$1,393,898 estimated cost of construction for the Project shall include a contingency amount of \$53,000 against which the Developer may draw for the purpose of accommodating any unforeseen cost of the Project. Such payment of contingency funds shall only be paid upon the Parties agreeing the need for payment arises from such unforeseen needs of the Project.

3.3 Total Reimbursement. Anything in this Agreement to the contrary notwithstanding, whether express or implied, the City's payment obligations under this Agreement shall not exceed \$1,393,898 for reimbursement to the Developer for construction of the Project.

ARTICLE IV
GENERAL TERMS

4.1 Effective Date. This Agreement shall become effective on the Effective Date and remain in effect through the date of its termination; provided anything in this Agreement to the contrary notwithstanding, the obligations of the City under Section 3 shall survive termination of this Agreement.

4.2 Public Purpose. The City does hereby ascertain, determine, declare and find that development and implementation of the Project with the City assistance herein provided is in the best interest of the City and will serve a public purpose and further enhance the public benefit and welfare by, among other things: providing for improved traffic and access in accord with the City's Transportation Plan; promoting local economic development, stimulating and diversifying the local economy; increasing employment opportunities in the City; increasing the City's tax base, which will result in additional tax revenues for the City; and promoting the retention and expansion of business enterprises in the City. The City finds that the above-cited items constitute important public benefits to City and its citizens.

4.3 Indemnity. The Developer shall release, save and hold harmless and indemnify the Indemnified Parties from the Developer's breach or default in the performance of any obligation herein, from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action against the Indemnified Parties, or any of them individually, by reason of any such claim. In connection with this clause, the Developer, upon written request by

the City, shall defend the same at the Developer's expense by counsel satisfactory to the City.

4.3 Warranty. The Developer agrees to warrant the condition of the Project for a period of ninety (90) days after completion. If the City finds any defect and/or problem it contends should be remedied by the Developer, the City must provide the Developer prompt notice of such defect within ten (10) days and allow the Developer a reasonable time to correct such alleged defect. In no event shall the Developer be responsible for providing any remedy for a defect to the Project after ninety (90) days from completion of said Project.

4.4 Assignment; Change of Control. The parties recognize that a substantial inducement to City for entering into this Agreement is the identity, reputation, and experience of the Developer. Accordingly, the Developer may not assign or transfer this Agreement or any interest herein or any part hereof to another entity without the written consent of the City, which consent shall not be unreasonably withheld, except (i) the Developer may transfer this Agreement without City consent to another entity that contains the same owners as the Developer, with the same type and percentage of ownership interests for each owner, for legal, tax or other purposes, and (ii) the Developer may assign without City consent the Developer's rights to receive payments from the City. Any assignment or transfer inconsistent with the terms hereof shall nullify and make void any obligation of the City otherwise required herein.

4.5 Default and Termination. (a) For purposes of this Agreement, an event of default shall be defined as: (i) the Developer's breach or violation of any term or condition of this Agreement which is not cured within thirty (30) days after written notice from the City; (ii) any material representation made by the Developer in this Agreement, or in any certificate, notice, or request made by the Developer in writing and delivered to the City pursuant to or in connection with this Agreement shall prove to be untrue or incorrect in any material respect as of the date made; (iii) the entry of a decree or order for relief by a court having jurisdiction concerning the Developer in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable Federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, trustee (or similar official) of the Developer for any substantial part of its property, or ordering the winding up or liquidation of its affairs and the continuance of any such decree or order unstayed and in effect for a period of sixty (60) consecutive days; (iv) the commencement by the Developer of a voluntary case under the Federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law; (v) the consent by the Developer to the appointment of or taking possession by a receiver, liquidator, trustee (or other similar official) of the Developer or of any substantial part of the Developers' property, or the making by the Developer of any assignment for the benefit of creditors; (vi) the failure of the Developer generally to pay its debts as such debts become due or (vii) the City's failure after request by the Developer to pay any amounts owed hereunder within sixty (60) days after the end of the fiscal year for which said payment is due.

(b) Upon the occurrence of an event of default by the Developer which is not cured within the applicable time periods set forth above, the City may, in its discretion, pursue any one or more of the following remedies without any notice or demand whatsoever, other than any notice expressly provided for in this Agreement:

- (i) seek and obtain injunctive relief or declaratory relief;
- (ii) terminate this Agreement; or
- (iii) exercise any and all other remedies available to the City at law or in equity.

(c) Upon default, the City shall have the right to recover all provable damages caused by the default of the Developer. Anything herein to the contrary notwithstanding, neither the City nor the Developer shall in any event be responsible or liable for consequential, exemplary, or punitive damages because of any act or omission in connection with this Agreement. All provable damages as to the City shall consist only of the sum due and owing for payments from the City during the term of this Agreement.

(d) Notwithstanding any other provision of this Agreement, prior to the Completion Date, the City may terminate this Agreement immediately upon receipt of formal notice that the Developer no longer has the intent of undertaking the Project. The obligations of the Developer under Section 2 shall survive termination of this Agreement.

4.6 Governing Law. This Agreement, all rights of the parties hereunder, and all disputes which may arise hereunder shall be subject to and governed in accordance with the laws of the State of Alabama.

4.7 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

4.8 Notices. All communications and notices expressly provided herein shall be sent, by first class mail, postage prepaid or by a nationally recognized overnight courier for delivery on the following business day, as follows:

If to the City: City of Madison
 Attention: Mayor
 100 Hughes Road
 Madison, Alabama 35758

With a copy to the attention of: City of Madison
 Attention: City Attorney
 100 Hughes Road
 Madison, Alabama 35758

If to Developer: Enfinger Development, LLC
 Attention: Jeff Enfinger
 8624 Memorial Pkwy SW
 Huntsville, AL 35802

or to such other address as the Parties shall be from time to time designated by written notice by any of the Parties.

4.9 Cost and Expense. Each party agrees to pay its own costs incurred in connection with the negotiation and preparation of this Agreement. The Developer acknowledges that it shall be responsible for all costs of developing the Project, including but not limited to, the cost of the Project and the cost of planning, such as legal, engineering, construction and environmental services. The Developer shall not hold itself out as an agent of the City and shall not make any representation or take any action which shall convey the impression to any contractor, subcontractor, laborer or supplier that the City has any obligation or responsibility for any payment to such contractor, subcontractor, laborer or supplier in connection with the Project.

4.10 Section Titles and Headings. The article and section titles and headings are for convenience only and do not define, modify or limit any of the terms and provisions hereof.

4.11 Liabilities of the City. The Developer understands, acknowledges and agrees that the obligations of the City as set forth herein are limited by and subject to the limitations imposed on public bodies, municipalities, and public corporations by the Constitution and laws of the State of Alabama, including, without limitation, the limits on the exercise or delegation of its constitutional and legislative powers

4.12 Relationship of Parties. The City and the Developer agree that nothing contained in this Agreement, or any act of the Developer or of the City, shall be deemed or construed by either of the parties hereto, or by third persons, to create any relationship of third party beneficiary hereof, or of principal and agent, or of a limited or a general partnership or of a joint venture or of any association or relationship between the Developer and the City other than as independent contractors in a contract entered into at arm's length. Notwithstanding any of the provisions of this Agreement, it is agreed that the City has no investment or equity interest in the business of the Developer, and shall not be liable for any debts of the Developer, nor shall the City be deemed or construed to be a partner, joint ventures or otherwise interested in the assets of the Developer, nor shall the Company at any time or times use the name or credit of the City in purchasing or attempting to purchase any equipment, supplies or other thing whatsoever.

4.13 Binding Effect. This Agreement and all terms, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the Company and its successors and permitted assigns and shall be binding upon and shall inure to the benefit of the City and its successors and permitted assigns.

4.14

4.14. Entire Agreement; Amendment. This Agreement constitutes one entire and complete agreement, and neither of the parties hereto shall have any rights arising from any separate component of this Agreement without complying in all respects with its duties and obligations under all parts and components hereof. This Agreement constitutes and includes all promises and representations, expressed or implied, made by the City and the Developer. No stipulations, agreements or understandings of the parties hereto shall be valid or enforceable unless

contained in this Agreement. No oral conditions, warranties or modifications hereto shall be valid between the parties. This Agreement may be amended only by a written instrument executed by both parties.

4.15 No Waiver. No consent or waiver, express or implied, by a Party or to any breach or default by another Party in the performance by the other Party of its obligations hereunder shall be valid unless in writing and no such consent or waiver to or of one breach or default shall constitute a consent or waiver to or of any other breach or default in the performance by such other Party of the same or any other obligations of such Party hereunder. Failure on the part of either Party to complain of any act or failure to act of the other Party or to declare the other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder. The granting of any consent or approval in any one instance by or on behalf of any Party hereto shall not be construed to waive or limit the need for such consent in any other or subsequent instance.

4.16 Binding Effect. This Agreement and all terms, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the Company and its successors and assigns and shall be binding upon and shall inure to the benefit of the City and its successors and assigns.

[signatures contained on the following page]

IN WITNESS WHEREOF, each Party hereto has caused this Agreement to be duly executed as of the date first above written.

DEVELOPER:

ENFINGER DEVELOPMENT, LLC

By: *Jeff Enfinger*

Title: *Mgr.*

STATE OF ALABAMA

§

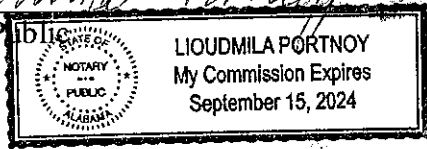
§

COUNTY OF MADISON

§

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that *Jeff Enfinger*, whose name as *Manager* of Enfinger Development, LLC, is signed to the foregoing instrument and who was made 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 *20* day of April 2023.

Ljoudmila Portnoy
Notary Public 

**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 April, 2023.

Notary Public

RESOLUTION NO. 2023-102-R

**ANNUAL RESOLUTION AUTHORIZING CONTINUING LEVY
OF AD VALOREM TAXES IN THE CITY OF MADISON AT EXISTING RATES**

WHEREAS, *Ala. Code* §11-51-42 imposes on the City Council the duty to levy, during the month of May of each year, a tax on the property situated in the City for the next succeeding tax year at a rate not exceeding the constitutional limit authorized to be levied by the City on the value of such property as assessed for state taxation, as shown on the books of assessment for the state and county tax year ending September 30 next succeeding the levy, and for the Mayor or City Clerk, on or before June 1 next succeeding the levy, to certify and deliver to the Tax Assessor of Madison County and the Revenue Commissioner of Limestone County a copy of the resolution adopted by the Council; and

WHEREAS, the City Council, by Resolution No. 89-23-R, adopted on May 23, 1989, levied the following ad valorem taxes as authorized by Article XI, Sections 216 and 217, and Amendments 56, 269, and 373 to the Alabama Constitution of 1901, and by a special election and referendum held pursuant to Madison City Ordinance No. 89-11:

- Five and one half (5-1/2) mills for general obligation bond issues and general municipal purposes
- One-half (1/2) mill special library tax
- Seven (7) mills for general municipal purposes; and

WHEREAS, the City Council, by Resolution No. 93-144-R, adopted on May 27, 1993, levied the following ad valorem taxes as authorized by Article XI, Sections 216 and 217, and Amendments 56 and 373, of the Alabama Constitution of 1901, and by Act No. 93-548 and a special election and referendum held on September 28, 1993 pursuant to Ordinance No. 93-85 and Resolution No. 93-58-R of the City Council of the City of Madison:

- Eleven (11) mills for general school purposes; and

WHEREAS, the City Council, by Resolution No. 2009-106-R, adopted on May 26, 2009, as amended by Resolution No. 2009-110-R, levied the following ad valorem taxes as authorized by Amendment 805 to the Constitution of the State of Alabama approved on November 4, 2008, and codified in the Official Recompilation of the Alabama Constitution of 1901, Local Amendments, Limestone County §14:

- Ten and one-half (10-1/2) mills of additional ad valorem tax for general school purposes on all taxable property located in the portion of the City of Madison, Alabama, located in Limestone County, Alabama; and

WHEREAS, the City Council by Resolution No. 2019-277-R adopted on September 24, 2019, levied the following ad valorem taxes as authorized by Amendment No. 373 to the Constitution of the State of Alabama of 1901:

- Twelve (12) mills of additional ad valorem tax for public educational purposes on all taxable property located in the City of Madison, Alabama; and

WHEREAS, the levy of the above-referenced ad valorem taxes on taxable property located in the City of Madison, Alabama, does not exceed the permissible levy of taxes under the laws and Constitution of the State of Alabama.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MADISON, ALABAMA, sitting in regular session on this the 24th day of April 2023, as follows:

Section 1. That the City of Madison, Alabama, a municipality located in Madison County and Limestone County within the State of Alabama, does hereby levy the following ad valorem taxes, all as set out below:

- Seven (7) mills for general ad valorem tax purposes as previously levied by Resolution No. 89-23-R, adopted May 25, 1989, on each \$100 worth of real estate, personal property, and intangibles subject to municipal taxation within the City of Madison, Alabama
- An additional five and one-half (5-1/2) mills of ad valorem tax as previously levied by Resolution No. 89-23-R, adopted May 25, 1989, on each \$100.00 worth of real estate, personal property, and intangibles subject to municipal taxation within the City of Madison, Alabama
- An additional one-half (1/2)-mill special library tax to be used exclusively for public library purposes in accordance with Amendment No. 269 of the Constitution of Alabama of 1901 as previously levied by Resolution No. 89-23-R, adopted May 25, 1989, on each \$100 worth of real estate, personal property, and intangibles subject to municipal taxation within the City of Madison, Alabama
- An additional eleven (11) mills of ad valorem tax for general school purposes on each \$100 worth of real estate, personal property, and intangibles subject to municipal taxation within the City of Madison, Alabama
- An additional ten and one-half (10-1/2) mills of ad valorem tax for general school purposes applicable in the portion of the City of Madison located in Limestone County, Alabama on each \$100 worth of real estate, personal property and intangibles subject to municipal taxation within the portion of the City of Madison located in Limestone County, Alabama.
- An additional 12 (twelve) mills of ad valorem tax for general school purposes on each \$100 worth of real estate, personal property and intangibles subject to municipal taxation within the portion of the City of Madison, Alabama

Section 2. That the taxing authorities of Madison County and Limestone County be and they are hereby authorized and directed to assess and collect the ad valorem taxes levied in Section 1 above, and the City Council does hereby certify the said rate of taxation for the purposes outlined above, the same to be assessed and placed on the records of the taxing authorities in Madison County and Limestone County, said assessment and collection to be effective for the tax year beginning

October 1, 2023 and ending September 30, 2024 and continuing in subsequent tax years, until repealed.

Section 3. That the taxing authorities of Madison County and Limestone County be and they are hereby authorized and directed to take all steps and actions necessary for the proper assessment and collection of each of the ad valorem taxes levied by Section 1 of this Resolution.

Section 4. If any clause, phrase, sentence, paragraph, or provision of this Resolution shall be invalidated by a court of competent jurisdiction, it is the intent of the Council that such invalidation shall not affect the validity of any other clause, phrase, sentence, paragraph, or provision thereof.

BE IT FURTHER RESOLVED that the City Clerk-Treasurer of the City of Madison, Alabama, be and hereby is directed to certify this Resolution under the name and seal of the City of Madison, Alabama, and to deliver a certified copy thereof to the following taxing authorities:

- A. To Madison County taxing authorities as follows:
 - (1) Tax Assessor of Madison County, Alabama
 - (2) License Commissioner of Madison County, Alabama
 - (3) Tax Collector of Madison County, Alabama
- B. To Limestone County taxing authorities as follows:
 - (1) Revenue Commissioner of Limestone County, Alabama
 - (2) License Commissioner of Limestone County, Alabama

The delivery of the certified copies of this Resolution shall be made immediately upon adoption of this Resolution.

READ, PASSED, AND ADOPTED this 24th day of April 2023.

Ranae Bartlett, President
Madison City Council
City of Madison, Alabama

ATTEST:

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

APPROVED this _____ day of April, 2023.

Paul Finley, Mayor
City of Madison, Alabama

RESOLUTION NO. 2023-089-R

**A RESOLUTION AUTHORIZING ACCEPTANCE OF A
TEMPORARY CONSTRUCTION EASEMENT FOR DOWNTOWN DITCH PROJECT**

WHEREAS, the City's Engineering Department is conducting repairs and maintenance to a drainage ditch adjacent to the Marion K. Anderson Trust Land, and the department requires access to certain property to complete said improvements;

BE IT RESOLVED by the City Council of the City of Madison, Alabama, a municipal corporation within the State of Alabama, as follows:

1. That in the judgment and opinion of the City Council of the City of Madison, it is in the public interest and necessary and expedient that the City of Madison acquire temporary easements, on, over, across, and upon the following described parcels of land (the "Tracts"), to-wit:

The southeast corner of Marion K. Anderson Trust Land as recorded in Deed Book 2017, Page 249670 in the Office of the Judge of Probate of Madison County, Alabama; thence run along the south property line of said Marion K. Anderson Trust Land and the north right-of-way line of Martin Street S 71°22'54" W, 20.00 feet to the Point of Beginning of the Temporary Construction Easement herein described; said point also lying on the southwest corner of a Drainage Easement recorded in Deed Book 2023, Page 4486, in the Office of the Judge of Probate of Madison County, Alabama; thence continue along said north right-of-way line S 71°22'54" W, 42.00 feet to a point; thence departing said north right-of-way line run N 18°37'06" W, 40.00 feet to a point; thence run N 42°06'40" E, 24.92 feet to a point; thence run N 18°37'06" W, 120.00 feet to a point; thence run N 70°58'30" E, 24.00 feet to a point lying on the west line of the aforementioned Drainage Easement; thence run along said west line S 17°22'36" E, 172.39 feet to the Point of Beginning.

Said Temporary Construction Easement lying and being situated in the northwest quarter of Section 16, Township 4 South, Range 2 West, Madison County, Alabama, and contains 4,814.25 S.F., more or less.

2. That the property subject to the easement is further described in a map attached as ***Exhibit A***.
3. That the obtainment of the foregoing Tracts is necessary to implement maintenance and improvements to the drainage ditch which is in the best interests of the citizens of the City of Madison in that the same will contribute to the health, safety, and general welfare of the citizens of Madison.

- 4. That the City shall hereby accept the dedication of such temporary easements for purposes of the Project.
- 5. That the Mayor of the City of Madison is authorized to execute all documents necessary to acquiring the donation and acquisition of the easements for the period not to exceed one year for the Project.

READ, PASSED, AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 14th day of April 2023.

Ranae Bartlett, Council President
City of Madison, Alabama

ATTEST:

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

APPROVED this ____ day of April 2023.

Paul Finley, Mayor
City of Madison, Alabama

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

STATE OF ALABAMA)
)
COUNTY OF MADISON)

**CONVEYANCE OF TEMPORARY
CONSTRUCTION EASEMENT**
No title opinion requested and none provided.

KNOW ALL MEN BY THESE PRESENTS, that **MARION K. ANDERSON LAND TRUST**, (“Grantor”), for and in consideration of Ten Dollars (\$10.00) cash paid by the **CITY OF MADISON, Alabama, a municipal corporation** in Madison County, Alabama (“Grantee”), the receipt of which is hereby acknowledged, hereby grants, bargains, sells, and conveys unto the Grantee, its successors and assigns, a temporary construction easement over, under, upon, and across the following described property which is situated in the City of Madison, Madison County, Alabama, to-wit:

The southeast corner of Marion K. Anderson Trust Land as recorded in Deed Book 2017, Page 249670 in the Office of the Judge of Probate of Madison County, Alabama; thence run along the south property line of said Marion K. Anderson Trust Land and the north right-of-way line of Martin Street S 71°22’54” W, 20.00 feet to the Point of Beginning of the Temporary Construction Easement herein described; said point also lying on the southwest corner of a Drainage Easement recorded in Deed Book 2023, Page 4486, in the Office of the Judge of Probate of Madison County, Alabama; thence continue along said north right-of-way line S 71°22’54” W, 42.00 feet to a point; thence departing said north right-of-way line run N 18°37’06” W, 40.00 feet to a point; thence run N 42°06’40” E, 24.92 feet to a point; thence run N 18°37’06” W, 120.00 feet to a point; thence run N 70°58’30” E, 24.00 feet to a point lying on the west line of the aforementioned Drainage Easement; thence run along said west line S 17°22’36” E, 172.39 feet to the Point of Beginning.

Said Temporary Construction Easement lying and being situated in the northwest quarter of Section 16, Township 4 South, Range 2 West, Madison County, Alabama, and contains 4,814.25 S.F., more or less.

TO HAVE AND TO HOLD unto the Grantee, its successors, and assigns until Grantee completes its public drainage improvement project, or one (1) year from the date of this agreement, whichever shall first occur. At such time, the above-described temporary construction easement shall terminate, and all rights shall revert to the Grantor.

For itself, its successors and assigns, Grantor covenants and agrees with the Grantee, its successors, and assigns, that they are lawfully seized in fee simple of said premises; that the Grantor is free from all encumbrances, and that he has a good right to sell and convey the same as aforesaid; and that they will warrant and defend the same to the Grantee, its successors and assigns for the duration of the temporary construction easement, against the lawful claims of all persons.

IN WITNESS WHEREOF, George Anderson, caused this instrument to be executed this _____ day of April 2023.

GRANTOR

**George Anderson, representative of the
MARION K. ANDERSON LAND TRUST**

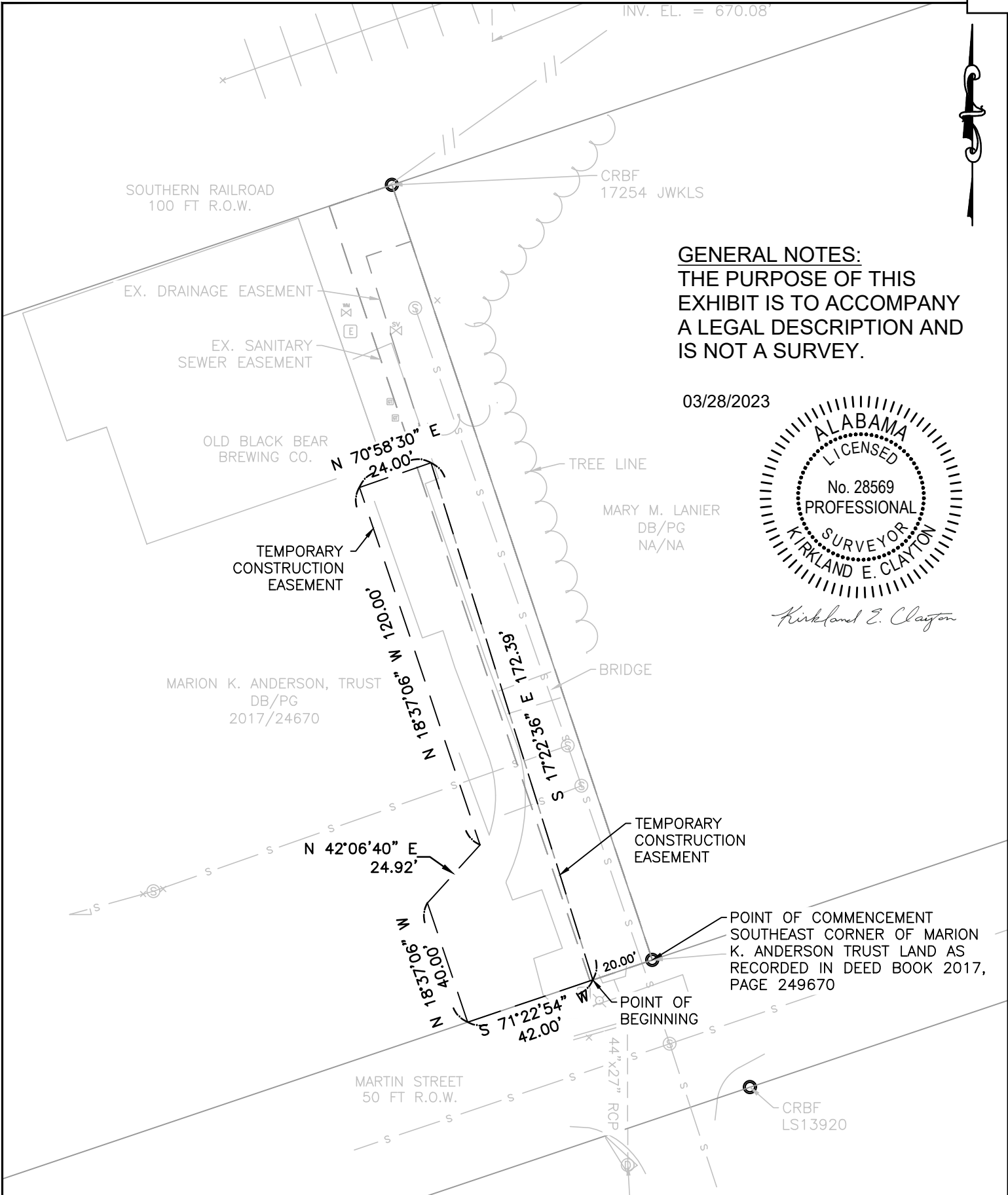
STATE OF ALABAMA §
§
COUNTY OF MADISON §

I, the undersigned authority, as Notary Public in and for said County in said State, hereby certify that **George Anderson, as representative of the Marion K. Anderson Land Trust** whose name is signed to the foregoing instrument and who is, or who has been made known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

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

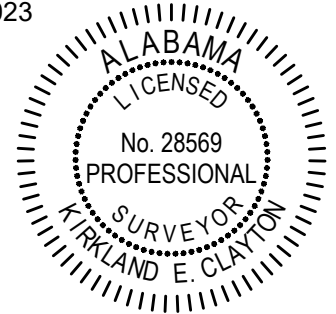
Notary Public

INV. EL. = 670.08'



GENERAL NOTES:
 THE PURPOSE OF THIS
 EXHIBIT IS TO ACCOMPANY
 A LEGAL DESCRIPTION AND
 IS NOT A SURVEY.

03/28/2023



Kirkland E. Clayton

POINT OF COMMENCEMENT
 SOUTHEAST CORNER OF MARION
 K. ANDERSON TRUST LAND AS
 RECORDED IN DEED BOOK 2017,
 PAGE 249670

POINT OF
 BEGINNING

DOWNTOWN DRAINAGE
 DITCH IMPROVEMENT
 MADISON, AL

EX. A

GMC # CHUN220026
 03/28/2023
 DRAWN BY: KPP

2400 5th Avenue S, Suite 200
 Birmingham, AL 35233
 T 205.879.4462
 GMCNETWORK.COM



TEMPORARY CONSTRUCTION EASEMENT
 SCALE: 1"=40'

RESOLUTION NO. 2023-145-R

**A RESOLUTION AUTHORIZING PROFESSIONAL SERVICES
AGREEMENT WITH CROY ENGINEERING, 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 Croy Engineering, LLC, for professional engineering design services for the improvement of an intersection located at Hughes Road and Mill Road 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 Croy Engineering, 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 24th day of April 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 April 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 Croy Engineering, LLC, located at 603 Madison Street, SE, Huntsville, Alabama 35801, hereinafter referred to as "Consultant."

WITNESS TO:

WHEREAS, the City of Madison has sought professional design services for improvements to the intersection located at Hughes Road and Mill Road;

WHEREAS, the best interests of the City and its residents will be served by retaining an experienced provider of such services; 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: Professional engineering design services for the improvement of an intersection at Hughes Road and Mill Road, said services to be administered according to Consultant’s proposal dated April 3, 2023 attached as ATTACHMENT A, which is attached hereto and wholly incorporated herein by this reference.
- B. 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.
- C. 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.
- D. 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.

- E. 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.
- F. 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. Consultant will not develop such original information unless specifically included in the attachments incorporated in Section 1.A.

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 **fifty thousand seven hundred seventy two dollars (\$50,772.00)**, 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. Any additional services will be performed according to the Consultant's fee schedule, set forth in Attachment A, and shall be subject to the budgetary restrictions of the City's duly-adopted budget for the then-current fiscal year.

SECTION 3: INDEMNIFICATION & INSURANCE

A. Indemnification: 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 negligent performance of professional services 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.

B. Insurance: 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 for the duration of this agreement: 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 Contractor 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.

All insurance policies as required of the Consultant in this Agreement shall be written by a company or companies authorized and qualified to do business in the State of Alabama. Contractor shall promptly file the certificates of all coverage required hereunder with City within ten (10) days of the effective date of this Agreement. Each insurance policy and certificate shall provide, in effect, that the policy may not be cancelled or non-renewed by the insurer until at least thirty (30) days after the insurer shall have notified the City of such action in writing by sending the same to the point of contact identified in Section 10. Consultant's insurance shall provide primary coverage as relates to other insurance carried by the City.

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 Engineering Department
100 Hughes Road
Madison, Alabama 35758*

*With a copy to:
City Attorney
City of Madison Legal Department
100 Hughes Road
Madison, AL 35758*

All notices to Consultant shall be addressed to:

*Houston Matthews, P.E.
Manager of Engineering Services
Croy Engineering, LLC
603 Madison Street, SE
Huntsville, AL 35801*

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. 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.
- E. 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.
- F. 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.

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 April, 2023.

Notary Public

**Croy Engineering, LLC
Consultant**

By: _____

Printed: _____

Its: _____

Date: _____

STATE OF ALABAMA §
COUNTY OF MADISON §

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of Croy Engineering, 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 April 2023.

Notary Public



April 3, 2023

Mr. Michael Johnson, P.E.
City of Madison
100 Hughes Road
Madison, AL 35758

Re: Proposal for Professional Services
Hughes Road and Mill Road Signal Improvements
Madison, AL

Dear Mr. Johnson:

Thank you for the opportunity to provide this proposal for professional services related to the above-referenced project. We propose to provide the following:

1. Surveying Services (\$11,500; Lump Sum)
2. Geotechnical Services (\$20,772; Lump Sum)
3. Construction Documents (\$18,500; Lump Sum)

Attached is a detailed description of our proposed Scope of Services, Summary of Fees, and Proposed Schedule. If this proposal is acceptable, please provide a Professional Services Agreement for our review and signature and return one copy of the approved agreement for our records.

Again, we thank you for the continued opportunity to work with you. Please contact me if you have any questions or if you need any additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Houston Matthews".

Houston Matthews, P.E.
Croy, *Manager of Engineering Services*

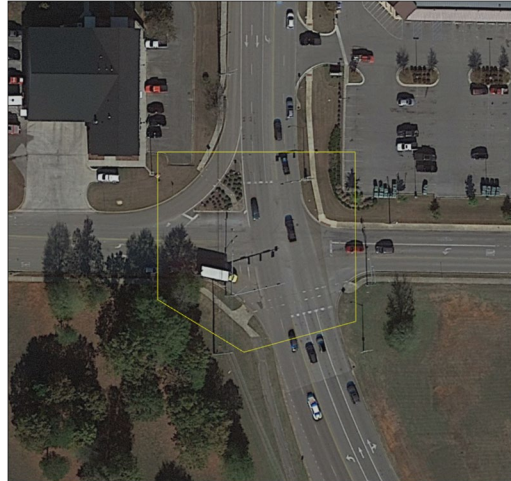
Attachment

Cc: File

Assumption: This proposal is prepared and delivered with the understanding that Croy Engineering has been selected to perform the work based on our professional qualifications for the project. The Alabama Board of Licensure for Engineers and Land Surveyors prohibits a licensee from participating in simultaneous negotiations or solicitations of fee proposals from two or more engineers. If this proposal being used under these circumstances, we must withdraw our proposal.

Scope of Services

The City of Madison desires to improve the signal and pedestrian mobility infrastructure at the intersection of Hughes Road and Mill Road. Improvements will include pedestrian mobility features (striping and handicap-accessible ramps), new signal poles, mast arms, signal heads, cameras, and cabinet infrastructure. The project will utilize the existing roadway layout and lane configuration. The general project area is depicted below.



Surveying Services

Croy will perform a partial topographic survey of the intersection of Mill Road and Hughes Road, to extend to the back of existing sidewalk or 20 feet from the back of curb, whichever is greater. Landscaping areas will be outlined. Croy will locate existing utilities marked per an AL-811 utility locate request and those visible above ground. Croy will locate utilities marked and exposed by the subconsultant (see Geotechnical Engineering Services). Croy will attempt to recover right-of-way or property corner monumentation sufficient to re-establish the existing rights-of-way lines as per those plats of record at the intersection. No date could be recovered for the City of Madison property at the northwest corner of the intersection and this right-of-way line may not be positively identified. Existing striping will be drawn from available aerial imagery. Elevations will not be taken in the existing roadway. Croy will generate a topographic survey drawing to be utilized in the Signal Modification Plan.

Geotechnical Engineering Services

Croy will provide the noted geotechnical engineering services through a subconsultant identified below. Refer to the attached proposal and scope of services from the subconsultant for addition details.

- GTEC, 4890 University Square, Suite 2, Huntsville, AL 35816; (256) 541-0165
 - Subsurface utility Engineering (SUE)
 - Field Exploration
 - Engineering Evaluation and Report

Construction Documents

A traffic signal design will be prepared that meets the requirements of the Engineering Department of the City of Madison. The plan will include the proposed replacement of all traffic



signal equipment (poles, mast arms, signal displays, controller, detectors, pull boxes, conduit, and other related or required items), associated striping, legends, marking, and signage, and phasing diagram. Croy will provide a comprehensive list of materials and the controller cabinet input assignment. Improvements shall meet the latest ADA requirements, as applicable.

An intersection retrofit plan will be prepared that meets the requirements of the Engineering Department of the City of Madison. This plan will include improvements the current configuration to provide for ADA compliant pedestrian crossings around the intersection of Hughes Road and Mill Road/Portal Lane. This plan will include any necessary grading and drainage and all ramps will be designed to PROWAG guidelines. The plan will also include the addition of pedestrian pushbuttons and signals to provide pedestrian indications on all crossings.

The following additional sheets will also be produced as part of the construction documents: Traffic Signal General Notes and Revision Summary, Summary of Quantities, Legend, and Overhead Street Name Signs. These will be compiled as part of a bid-ready plan set.

Additional Services

The following services are excluded from the Scope of Services and are considered Additional Services:

1. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or the Engineer's Sub-Consultants.
2. Services required as a result of Client's providing incomplete or incorrect project information.
3. Coordination with ALDOT or any entity outside of the City of Madison.
4. Roadway design or lane configuration changes.
5. Traffic study or warrant analysis.
6. Surveying services excludes: boundary line disputes, legal descriptions, cutting and marking property lines, court costs stemming from a boundary dispute, additional field work due to lack of evidence, topographic features for design, construction staking services, re-staking of any features originally placed on the ground by our crews, fees associated with accessing property, easements not of record or underground utility locations, ALTA survey, and as-built survey.

Fees for Additional Service: The fees for additional services, upon request and authorization to provide by the Owner, will be billed at Croy's standard hourly rates or at a negotiated lump sum amount.



Summary of Fees

Description	Type	Fee
Surveying Services	Lump Sum	\$11,500
Geotechnical Engineering Services	Lump Sum	\$18,500
Construction Documents	Lump Sum	\$20,772
TOTAL FEE		\$50,772

Reimbursable expenses may include but are not limited to the following: printing, delivery charges, shipping, mileage, parking fees, lodging expenses, and document recording fees. Reimbursable expenses are applicable to hourly fee contracts or tasks. All permit, application, and submittal fees applicable or required are to be paid by the Client.

Proposed Schedule

The Engineer is available to begin services within three (3) weeks from the Client's authorization to proceed. The Engineer anticipates completion of the described Scope of Services within eight (8) weeks from the commencement of services. *Note: Schedule durations are estimated based on the authorization of services on the date of this Proposal and are subject to change due to Engineer's workload at the time of authorization to proceed.*



March 31, 2023

Croy Engineering, LLC
603 Madison Street
Huntsville, Alabama 35801

ATTN: Mr. Houston Matthews, P.E.

SUBJECT: Proposal for Geotechnical Engineering Study
Hughes Road and Mill Road Signal Improvements
Madison, Alabama
GTEC Proposal No. 0892-P

Ladies and Gentlemen,

GTEC, LLC is pleased to provide this proposal for a Geotechnical Engineering Study for the above referenced project in Madison, Alabama. Project information was provided by Mr. Houston Matthews via email on March 29, 20223. This proposal describes the site and presents a planned scope of services, fee, and anticipated schedule.

GTEC, LLC was established in 2020 with more than 60 years combined experience in the geotechnical engineering, environmental assessments, permitting, and construction testing services. We value client relationships and strive to provide services for the development of successful projects.

PROJECT INFORMATION

GTEC, LLC understands the City of Madison has contracted Croy Engineering, LLC (Croy) to provide design services for traffic signal improvements at the intersection of Hughes Road and Mill Road in Madison, Alabama. We understand the City of Madison is funding the project and Alabama Department of Transportation funds are not being used. We understand the signal improvements will include new poles and mast arms as well as improvements to the sidewalk ramps. At this time, the northeast, southwest, and southeast quadrants will be used for the location of new poles. We also understand the City of Madison has requested utility location to include hydro-excavation to observe utility depth.

SCOPE OF SERVICES

The purpose of our study is to explore the subsurface conditions and groundwater levels in order to provide recommendations for construction planning. To accomplish this objective, we have developed the following scope of services.



Subsurface Utility Engineering (SUE) Study

We will contact Alabama One Call prior to the performance of our field services. The utility location services will only mark registered public utility lines; therefore, we will need assistance in locating private lines or underground structures.




GTEC will assist in providing a SUE study for relevant underground utilities in the project area. This study will be coordinated with Croy design efforts to determine where underground utilities should be located. Ground penetrating radar (GPR) will be performed in areas where underground utilities are marked by Alabama One Call personnel. Following the GPR, vacuum excavation will be performed to attempt to expose the top of the buried utility so that the location may be surveyed by Croy.

Field Activities

Boring locations will be marked using a hand-held GPS unit and by measuring from existing site features. If a topographic survey is provided, boring elevations can be estimated by interpolating between contour lines. If more accurate location and elevation are needed, we recommend our boring locations be surveyed.




GTEC proposes to explore the subsurface conditions with three (3) soil test borings during this study. Each boring will be advanced to a depth of 30 feet, or auger refusal, whichever occurs first. Standard penetration tests (SPT) in accordance with ASTM D1586 will be conducted in conjunction with the soil test borings. The SPT tests will be performed at 2-½ foot intervals in the upper 10 feet and at 5-foot intervals thereafter to boring termination or auger or SPT refusal. Pocket penetrometer readings may be taken on each sample and recorded on the Boring Log. Upon completion, subsurface water will be measured and recorded in each borehole, and the borehole will be backfilled with soil auger cuttings.

A member of our staff will supervise the drilling activities and visually classify the soil samples in general accordance with ASTM D2488, the Standard Practice for Description and Identification (Visual-Manual Procedure). Based on the anticipated conditions, we plan to perform the following laboratory tests on select samples:

-  Natural Moisture Content (Soil), ASTM D2216
-  Atterberg Limits, ASTM D4318
-  Unconfined Compressive Strength (Soil), ASTM D2166

Engineering Evaluation and Report

After our analyses are complete, we will issue a written report describing the exploration and outlining our recommendations. The report will include the following:

-  Our understanding of the planned project,
-  A summary of existing site conditions, site geology, and topography,
-  Records of field tests outlining the materials encountered at the test locations,



- ✔ Results of laboratory tests performed to provide information regarding the engineering characteristics of the subsurface materials,
- ✔ Recommendations for foundation type including bearing capacity and strata depth,
- ✔ Values for axial capacity and L-Pile parameters for signal pole foundations, and
- ✔ Groundwater concerns, if encountered.

FEE AND SCHEDULE

At this time, we propose our services described for a lump sum fee of \$18,612.00. Services not included in the scope can be added at our prevailing unit rates. We will schedule field activities upon receipt of this contract authorized by signature below and provide the planned dates of services. Final reports will be issued within six to eight weeks of authorization. This proposal is valid if accepted within 60 days of issuance.

AUTHORIZATION

Should this proposal meet your objectives, please sign, date, and return. Signed authorization will constitute acceptance of the fee, schedule, and General Terms and Conditions, which are included with this proposal. Any modification to this proposal, the fee, schedule, or General Terms and Conditions must be accepted by both parties.

To Authorize this Proposal, please sign below:

Paul Finley , Mayor

 Printed Name/Title

 Signature and Date

City of Madison, Alabama

 Company Name

100 Hughes Road, Madison, AL 35758

 Billing Address

ap@madisonal.gov

 Accounts Payable Email Address



CLOSING REMARKS

We appreciate this opportunity to be of service and look forward to working with you on this project. If you have any questions regarding this proposal or would like to discuss the proposed scope and budget, please do not hesitate to contact GTEC.

Respectfully,
GTEC

A handwritten signature in blue ink that reads "Rachel T. Finch".

Rachel T. Finch, P.E.
Senior Engineer

A handwritten signature in blue ink that reads "John W. Corbell".
John W. Corbell, P.E.
Executive Vice President

Attachments: General Terms and Conditions



General Terms and Conditions

The standard of care for all professional, geotechnical, and related services performed or furnished by GTEC, LLC (GTEC) under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. GTEC makes no warranties, express or implied, under this Agreement or otherwise, in connection with GTEC's services. Interpretations and recommendations by GTEC will be based on information available to or developed by GTEC. Owner recognizes that subsurface conditions may vary from those observed at specific locations where borings, surveys, sampling, testing, or other Site explorations are made, and that Site conditions may change with time.

Neither Owner nor Engineer shall be responsible for discovering deficiencies in the technical accuracy of GTEC's services. GTEC shall correct deficiencies in technical accuracy without additional compensation unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

GTEC may retain such Consultants as GTEC deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.

GTEC shall be fully responsible to Owner for all acts and omissions of Consultants and other entities or individuals performing or furnishing any of the Geotechnical Services, just as GTEC is responsible for its own acts and omissions.

Subject to the standard of care set forth above, GTEC and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

Compliance with Laws and Regulations, and Policies and Procedures:

1. GTEC and Owner shall comply with applicable Laws and Regulations.
2. GTEC shall comply with any and all policies, procedures, instructions, and Site access and restoration requirements that are applicable to Geotechnical Services and that Owner provides to GTEC in writing, subject to the standard of care set forth in these agreement, and to the extent compliance is not inconsistent with professional practice requirements.
3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to GTEC's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date to Laws and Regulations;
 - b. the receipt by GTEC after the Effective Date of Owner-provided written policies and procedures;
 - c. changes after the Effective Date to Owner-provided written policies or procedures.

GTEC shall not be required to sign any document, no matter by whom requested, that would result in GTEC having to certify, guarantee, or warrant the existence of conditions whose existence GTEC cannot ascertain. Owner agrees not to make resolution of any dispute with GTEC or payment of any amount due to GTEC in any way contingent upon GTEC signing any such document.

GTEC shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall GTEC have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site (except with respect to GTEC's own services and those of its Consultants), nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

GTEC neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract.

GTEC shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by GTEC or its Consultants.

GTEC is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.

GTEC's services do not include providing legal advice or representation.

GTEC's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.

While at the Site, GTEC, its Consultants, and their employees and representatives, shall comply with the applicable requirements of Contractor's, Engineer's, Owner's, and other safety programs of which GTEC has been informed.

Geotechnical Consultation during Construction Phase Services

1. GTEC shall be responsible only for those Geotechnical Consultation during Construction Phase services expressly required of GTEC in our signed agreement. With the exception of such expressly required services, GTEC shall have no design, submittal review, or other obligations during construction with respect to the Project's geotechnical aspects or otherwise, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other Construction Phase administrative, engineering, and professional services.



2. Notwithstanding the above, GTEC shall be responsible for any professional opinions and interpretations provided by GTEC to Owner, Engineer, or others during construction, including interpretations or clarifications of the Construction Contract Documents, and shall remain responsible for all other services performed or furnished under this Agreement.

Use of Documents

1. All Documents are instruments of service in respect to this Project, and GTEC shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the GTEC) whether or not the Project is completed.
2. GTEC grants Owner and Engineer a license to use the Geotechnical Report and other Documents for any reasonable purpose, to include the Geotechnical Report and other Documents in Bidding Documents and Construction Contract Documents issued by Owner, and to furnish copies of the Geotechnical Report and other Documents to any third party at any time, without notice to or permission from GTEC, provided that Owner is in full compliance with the provisions of this Agreement governing payment for services rendered in preparing the Geotechnical Report and other Documents. GTEC waives any claim against Owner or Engineer with respect to any such use or furnishing of the Geotechnical Report and other Documents.
3. Owner may make and retain copies of all Documents for information and reference in connection with the use of the Documents on the Project. GTEC grants Owner, Engineer, and any design professionals retained by Owner or Engineer, a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by GTEC of full payment due and owing for all services relating to preparation of the Documents and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by GTEC, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by GTEC; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by GTEC, as appropriate for the specific purpose intended, will be at the user's sole risk and without liability or legal exposure to GTEC or its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless GTEC and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents by Owner without written verification, completion, or adaptation by GTEC; and (4) such limited license shall not create any rights in other third parties.
4. If, in addition to performing the GTEC's services under this Agreement, GTEC at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate GTEC at rates or in an amount to be agreed upon by Owner and GTEC.

Electronic Transmittals

1. The Owner and GTEC may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
2. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and GTEC shall jointly develop such protocols.
3. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

Limitation of Liability

To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of GTEC and its officers, directors, members, partners, agents, employees, and Consultants, to Owner and anyone claiming by, through, or under Owner for any and all injuries, claims, losses, expenses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project, GTEC's or its Consultants' services, or this Agreement, from any cause or causes whatsoever, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of GTEC or its officers, directors, members, partners, agents, employees, or Consultants, shall not exceed the total amount of \$50,000 or the total compensation received by GTEC under this Agreement, whichever is greater. Higher limits are available for an additional fee.

Insurance

1. GTEC shall procure and maintain insurance as set forth in Insurance. GTEC shall cause Owner and Engineer (if any) to be listed as additional insureds on any applicable general liability insurance policy carried by GTEC.
2. Owner shall procure and maintain insurance as set forth in Insurance. Owner shall cause GTEC and its Consultants to be listed as additional insureds on any general liability policies carried by Owner that are applicable to the Project.
3. If GTEC's services under this Agreement include Construction Phase services, and Owner requires Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, or other insurance deemed necessary to protect Owner's interests in the Project, then Owner shall further require Contractor to cause GTEC and its Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.
4. Owner and GTEC shall each deliver to the other certificates of insurance evidencing the coverages indicated. Such certificates shall be furnished prior to commencement of GTEC's services and at renewals thereafter during the life of the Agreement.
5. All policies of property insurance relating to the Project, including any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against GTEC or its Consultants. Owner and GTEC waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner and GTEC shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
6. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement, and immediately either take action to avoid cancellation or a reduction in limits, or obtain replacement coverage meeting the requirements of this Agreement.



7. At any time, Owner may request that GTEC or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified. If so requested by Owner, and if commercially available, GTEC shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner.

Suspension and Termination

1. Suspension:
 - a. By Owner: Owner may suspend GTEC's services under this Agreement for up to 90 days upon seven days written notice to GTEC.
 - b. By GTEC: GTEC may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay GTEC for invoiced services and expenses or in response to the presence of Constituents of Concern at the Site.
2. Termination: The obligation to provide further services under this Agreement may be terminated:
 - a. For cause,
 - i. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party.
 - ii. By GTEC:
 1. upon seven days written notice if Owner demands that GTEC furnish or perform services contrary to GTEC's responsibilities as a licensed professional; or
 2. upon seven days written notice if GTEC's services for the Project are delayed or suspended for more than 90 days for reasons beyond GTEC's control, or as the result of the presence at the Site of undisclosed Constituents of Concern.
 3. GTEC shall have no liability to Owner on account of such termination.
 - iii. Notwithstanding the foregoing, this Agreement will not terminate if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but not exceed, 60 days after the date of receipt of the notice.
 - b. For convenience, by Owner effective upon GTEC's receipt of notice from Owner.
3. Effective Date of Termination: The terminating party under may set the effective date of termination at a time up to 30 days later than otherwise provided to allow GTEC to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
4. Payments Upon Termination
 - a. In the event of any termination, GTEC will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with the Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon receiving such payment, GTEC shall provide all Documents to Owner, which shall have the limited right to the use of all Documents, at Owner's sole risk.
 - b. In addition to invoicing for those items identified, in the event of termination by Owner for convenience or by GTEC for cause the GTEC shall be entitled to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in the agreement.

Controlling Law: This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

Successors, Assigns, and Beneficiaries

1. Owner and GTEC are hereby bound and the successors, executors, administrators, and legal representatives of Owner and GTEC (and to the extent permitted the assigns of Owner and GTEC) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
2. Neither Owner nor GTEC may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
3. Unless expressly provided otherwise in this Agreement:
 - a. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or GTEC to: (a) any Constructor; (c) any other third-party individual or entity; or (d) to any surety for or employee of any of them.
 - b. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and GTEC and not for the benefit of any other party. GTEC shall not be responsible for unreasonable interpretations or misuse of the Geotechnical Report or other Documents by third parties.
 - c. Owner agrees that the substance of the provisions shall appear in each Construction Contract between Owner and any Contractor.

Dispute Resolution

1. Owner and GTEC agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking other provisions of this Agreement, or exercising their rights under law.
2. If the parties fail to resolve a dispute through negotiation, then either or both may exercise their rights under law.

Environmental Condition of Site

1. Owner represents to GTEC that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to GTEC, exist at or adjacent to the Site.



2. If GTEC encounters or learns of an undisclosed Constituent of Concern at the Site, then GTEC shall promptly notify (1) Owner and (2) appropriate governmental officials if GTEC reasonably concludes that doing so is required by applicable Laws or Regulations.
3. It is acknowledged by both parties that GTEC's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If GTEC or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
4. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then GTEC may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until such portion of the Project is no longer affected.
5. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of GTEC's services under this Agreement, then the GTEC shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on seven days notice.
6. Owner acknowledges that GTEC is performing professional services for Owner and that GTEC is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with any activities or services under this Agreement.

Indemnification and Mutual Waiver

1. **Indemnification by GTEC:** To the fullest extent permitted by Laws and Regulations, GTEC shall indemnify and hold harmless Owner, Engineer, and their officers, directors, members, partners, agents, consultants, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of GTEC or GTEC's officers, directors, members, partners, agents, employees, or Consultants. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and GTEC in Limitations of Liability.
2. **Indemnification by Owner:** Owner shall indemnify and hold harmless GTEC, and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations, and to the extent (if any) required in Limitations of Liability.
3. **No Defense Obligation:** The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated, or required by the Prime Agreement.
4. **Environmental Indemnification:** To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless GTEC and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
5. **Percentage Share of Negligence:** To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, GTEC, and all other negligent entities and individuals.
6. **Mutual Waiver:** To the fullest extent permitted by Laws and Regulations, Owner and GTEC waive against each other, and the other's employees, officers, directors, members, partners, agents, insurers, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes.

Records Retention

1. GTEC shall retain on file in legible form all boring logs, field data, laboratory test data, calculations, notes, and other records (including cost records) related to the Project for a period of five years following the completion or termination of services under this Agreement. Upon Owner's request, GTEC shall provide a copy of any such item to Owner at cost.
[Note to User: In some jurisdictions certain geotechnical data, such as well logs, may be subject to specific retention or filing requirements. Revise the requirement above if necessary to address local or state rules.]
2. Provisions regarding retention and disposition of rock and material samples (if any) are set forth in the agreement.

Invoices and Payments

GTEC shall prepare invoices in accordance with its standard invoicing practices. GTEC shall submit its invoices to Owner on a monthly basis. Invoices are due and payable upon receipt. Payment will be credited first to any interest owed to GTEC and then to principal. If Owner fails to make any payment due GTEC for services and expenses within 30 days after receipt of GTEC's invoice, then:

1. amounts due GTEC will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
2. GTEC may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against GTEC for any such suspension.
3. If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise GTEC in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to these terms.

Miscellaneous Provisions

1. **Notices:** Any notice required under this Agreement shall be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.



2. Survival: All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
3. Severability: Any provision or part of this Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and GTEC, which agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
4. Waiver: A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
5. Accrual of Claims: To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion of the Project.

RESOLUTION NO. 2023-147-R

A RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH GARVER, LLC

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that the Mayor is authorized to negotiate and execute a Professional Services Agreement with Garver, LLC for professional design recommendations on channel improvements along the major drainage ways in the Stavemill Estates located near Portal Lane, 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, 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 Garver LLC in a total amount not to exceed one hundred twenty five thousand two hundred thirty dollars (\$125,230.00) to be paid from the Engineering Department's budget.

READ, PASSED, AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 24th day of April 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 April 2023.

Paul Finley, Mayor
City of Madison, Alabama



**Agreement
For
Professional Services
City of Madison**

City of Madison Proj. No. 23-015

Garver Proj. No. 23S02160



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THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made as of the Effective Date by and between the **City of Madison**(hereinafter referred to as “**Client**”), and **Garver, LLC** (hereinafter referred to as “**Garver**”). Client and Garver may individually be referred to herein after as a “Party” and/or “Parties” respectively.

RECITALS

WHEREAS, Client intends to improve the existing drainage infrastructure in the existing Stavemill Estates Subdivision, in the City of Madison, Alabama. (the “**Project**”).

WHEREAS, Garver will provide professional Services related to the Project as further described herein.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meaning specified in this Section:

“**Effective Date**” means the date last set forth in the signature lines below.

“**Damages**” means any and all damages, liabilities, or costs (including reasonable attorneys’ fees recoverable under applicable law).

“**Hazardous Materials**” means any substance that, under applicable law, is considered to be hazardous or toxic or is or may be required to be remediated, including: (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” or any words of similar import pursuant to applicable law; or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any governmental instrumentality, or which may be the subject of liability for damages, costs or remediation.

“**Personnel**” means affiliates, directors, officers, partners, members, employees, and agents.

2. SCOPE OF SERVICES

2.1. Services. Client hereby engages Garver to perform the scope of service described in Exhibit A attached hereto (“**Services**”). Execution of this Agreement by Client constitutes Client’s written authorization to proceed with the Services. In consideration for such Services, Client agrees to pay Garver in accordance with Section 3 below.



3. PAYMENT

- 3.1. Fee. For the Services described under Section 2.1, Client will pay Garver in accordance with this Section 3 and Exhibit B. Client represents that funding sources are in place with the available funds necessary to pay Garver in accordance with the terms of this Agreement.
- 3.2. Invoicing Statements. Garver shall invoice Client on a monthly basis. Such invoice shall include supporting documentation reasonably necessary for Client to know with reasonable certainty the proportion of Services accomplished. The Client's terms and conditions set forth in a purchase order (or any similar document) are expressly rejected.
- 3.3. Payment.
- 3.3.1. Due Date. Client shall pay Garver all undisputed amounts within thirty (30) days after receipt of an invoice. Client shall provide notice in writing of any portion of an invoice that is disputed in good faith within fifteen (15) days of receipt of an invoice. Garver shall promptly work to resolve any and all items identified by Client relating to the disputed invoice. All disputed portions shall be paid promptly upon resolution of the underlying dispute.
- 3.3.2. If any undisputed payment due Garver under this Agreement is not received within forty-five (45) days from the date of an invoice, Garver may elect to suspend Services under this Agreement without penalty.
- 3.3.3. Payments due and owing that are not received within thirty (30) days of an invoice date will be subject to interest at the lesser of a one percent (1%) monthly interest charge (compounded) or the highest interest rate permitted by applicable law.

4. AMENDMENTS

- 4.1. Amendments. Garver shall be entitled to an equitable adjustment in the cost and/or schedule for circumstances outside the reasonable control of Garver, including modifications in the scope of Services, applicable law, codes, or standards after the Effective Date ("Amendment"). As soon as reasonably possible, Garver shall forward a formal Amendment to Client with backup supporting the Amendment. All Amendments should include, to the extent known and available under the circumstances, documentation sufficient to enable Client to determine: (i) the factors necessitating the possibility of a change; (ii) the impact which the change is likely to have on the cost to perform the Services; and (iii) the impact which the change is likely to have on the schedule. All Amendments shall be effective only after being signed by the designated representatives of both Parties. Garver shall have no obligation to perform any additional services created by such Amendment until a mutually agreeable Amendment is executed by both Parties.

5. OWNER'S RESPONSIBILITIES

- 5.1. In connection with the Project, Client's responsibilities shall include the following:
- 5.1.1. Those responsibilities set forth in Exhibit A.
- 5.1.2. Client shall be responsible for all requirements and instructions that it furnishes to Garver pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Client to Garver pursuant to this



Agreement. Garver may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items as further set forth in Exhibit A.

5.1.3. Client shall give prompt written notice to Garver whenever Client observes or otherwise becomes aware of the presence at the Project site of any Hazardous Materials or any relevant, material defect, or nonconformance in: (i) the Services; (ii) the performance by any contractor providing or otherwise performing construction services related to the Project; or (iii) Client's performance of its responsibilities under this Agreement.

5.1.4. Client shall include "Garver, LLC" as an indemnified party under the contractor's indemnity obligations included in the construction contract documents.

5.1.5. Client will not directly or indirectly solicit any of Garver's Personnel during performance of this Agreement and for a period of one (1) year beyond completion of this Agreement.

6. GENERAL REQUIREMENTS

6.1. Standards of Performance.

6.1.1. Industry Practice. Garver shall perform any and all Services required herein in accordance with generally accepted practices and standards employed by the applicable United States professional services industries as of the Effective Date practicing under similar conditions and locale. Such generally accepted practices and standards are not intended to be limited to the optimum practices, methods, techniques, or standards to the exclusion of all others, but rather to a spectrum of reasonable and prudent practices employed by the United States professional services industry.

6.1.2. Client shall not be responsible for discovering deficiencies in the technical accuracy of Garver's services. Garver shall promptly correct deficiencies in technical accuracy without the need for an Amendment unless such corrective action is directly attributable to deficiencies in Client-furnished information.

6.1.3. On-site Services. Garver and its representatives shall comply with Client's and its separate contractor's Project-specific safety programs, which have been provided to Garver in writing in advance of any site visits.

6.1.4. Relied Upon Information. Garver may use or rely upon design elements and information ordinarily or customarily furnished by others including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

6.1.5. Aside from Garver's direct subconsultants, Garver shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Garver have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any such contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to that contractor's services. Garver shall not be responsible for the acts or omissions of any contractor for whom it does not have a direct contract. Garver neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform



its work in accordance with the construction contract documents applicable to the contractor's work, even when Garver is performing construction phase services.

6.1.6. In no event is Garver acting as a "municipal advisor" as set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission. Garver's Services expressly do not include providing advice pertaining to insurance, legal, finance, surety-bonding, or similar services.

6.2. Instruments of Service.

6.2.1. Deliverables. All reports, specifications, record drawings, models, data, and all other information provided by Garver or its subconsultants, which is required to be delivered to Client under Exhibit A (the "**Deliverables**"), shall become the property of Client subject to the terms and conditions stated herein. Notwithstanding anything in this Agreement to the contrary, Garver shall have no obligation to deliver the Deliverables to Client until payment has been received for the same.

6.2.2. Electronic Media. Client hereby agrees that all electronic media, including CADD files ("**Electronic Media**"), are tools used solely for the preparation of the Deliverables. Upon Client's written request, Garver will furnish to Client copies of Electronic Media to the extent included as part of the Services. In the event of an inconsistency or conflict in the content between the Deliverables and the Electronic Media, however, the Deliverables shall take precedence in all respects. Electronic Media is furnished without guarantee of compatibility with the Client's software or hardware. Because Electronic Media can be altered, either intentionally or unintentionally, by transcription, machine error, environmental factors, or by operators, it is agreed that, to the extent permitted by applicable law, Client shall indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from and against any and all claims, liabilities, damages, losses, and costs, including, but not limited to, costs of defense arising out of changes or modifications to the Electronic Media form in Client's possession or released to others by Client. Garver's sole responsibility and liability for Electronic Media is to furnish a replacement for any non-functioning Electronic Media for reasons solely attributable to Garver within thirty (30) days after delivery to Client.

6.2.3. Property Rights. All intellectual property rights of a Party, including copyright, patent, and reuse ("**Intellectual Property**"), shall remain the Intellectual Property of that Party. Garver shall obtain all necessary Intellectual Property from any necessary third parties in order to execute the Services. Any Intellectual Property of Garver or any third party embedded in the Deliverables shall remain so imbedded and may not be separated therefrom.

6.2.4. License. Upon Client fulfilling its payment obligations under this Agreement, Garver hereby grants Client a license to use the Intellectual Property, but only in the operation and maintenance of the Project for which it was provided. Use of such Intellectual Property for modification, extension, or expansion of this Project or on any other project, unless under the direction of Garver, shall be without liability to Garver and Garver's subconsultants. To the extent permitted by applicable law, Client shall indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from and against any and all claims, liabilities, damages, losses, and costs, including but not limited to costs of defense arising out of Client's use of the Intellectual Property contrary to the rights permitted herein.



6.3. Opinions of Cost.

6.3.1. Since Garver has no control over: (i) the cost of labor, materials, equipment, or services furnished by others; (ii) the contractor or its subcontractor(s)' methods of determining prices; (iii) competitive bidding; (iv) market conditions; or (v) similar material factors, Garver's opinions of Project costs or construction costs provided pursuant to Exhibit A, if any, are to be made on the basis of Garver's experience and qualifications and represent Garver's reasonable judgment as an experienced and qualified professional engineering firm, familiar with the construction industry. Garver cannot and does not guarantee that proposals, bids, or actual Project or construction costs will not vary from estimates prepared by Garver.

6.3.2. Client understands that the construction cost estimates developed by Garver do not establish a limit for the construction contract amount. If the actual amount of the low construction bid or resulting construction contract exceeds the construction budget established by Client, Garver will not be required to re-design the Services without additional compensation. In the event Client requires greater assurances as to probable construction cost, then Client agrees to obtain an independent cost estimate.

6.4. Underground Utilities. Except to the extent expressly included as part of the Services, Garver will not provide research regarding utilities or survey utilities located and marked by their owners. Furthermore, since many utility companies typically will not locate and mark their underground facilities prior to notice of excavation, Garver is not responsible for knowing whether underground utilities are present or knowing the exact location of such utilities for design and cost estimating purposes. In no event is Garver responsible for damage to underground utilities, unmarked or improperly marked, caused by geotechnical conditions, potholing, construction, or other contractors or subcontractors working under a subcontract to this Agreement.

6.5. Design without Construction Phase Services.

6.5.1. If the Client requests in writing that Garver provide any specific construction phase services or assistance with resolving disputes or other subcontractor related issues, and if Garver agrees to provide such services, then Garver shall be compensated for the services as an Amendment in accordance with Sections 4 and 10.2.

6.6. Hazardous Materials. Nothing in this Agreement shall be construed or interpreted as requiring Garver to assume any role in the identification, evaluation, treatment, storage, disposal, or transportation of any Hazardous Materials. Notwithstanding any other provision to the contrary in this Agreement and to the fullest extent permitted by law, Client shall indemnify and hold Garver and Garver's subconsultants, and their Personnel harmless from and against any and all losses which arise out of the performance of the Services and relating to the regulation and/or protection of the environment including without limitation, losses incurred in connection with characterization, handling, transportation, storage, removal, remediation, disturbance, or disposal of Hazardous Material, whether above or below ground.

6.7. Confidentiality. Client and Garver shall consider: (i) all information provided by the other Party that is marked as "Confidential Information" or "Proprietary Information" or identified as confidential pursuant to this Section 6.7 in writing promptly after being disclosed verbally; and (ii) all documents resulting from Garver's performance of Services to be Confidential Information. Except as legally required, Confidential Information shall not be discussed with or transmitted to any third parties, except on a "need to know basis" with equal or greater



confidentiality protection or written consent of the disclosing Party. Confidential Information shall not include and nothing herein shall limit either Party's right to disclose any information provided hereunder which: (i) was or becomes generally available to the public, other than as a result of a disclosure by the receiving Party or its Personnel; (ii) was or becomes available to the receiving Party or its representatives on a non-confidential basis, provided that the source of the information is not bound by a confidentiality agreement or otherwise prohibited from transmitting such information by a contractual, legal, or fiduciary duty; (iii) was independently developed by the receiving Party without the use of any Confidential Information of the disclosing Party; or (iv) is required to be disclosed by applicable law or a court order. All confidentiality obligations hereunder shall expire three (3) years after completion of the Services. Nothing herein shall be interpreted as prohibiting Garver from disclosing general information regarding the Project for future marketing purposes.

7. INSURANCE

7.1. Insurance.

7.1.1. Garver shall procure and maintain insurance as set forth in Exhibit C until completion of the Service. Upon request, Garver shall name Client as an additional insured on Garver's General Liability policy to the extent of Garver's indemnity obligations provided in Section 9 of this Agreement.

7.1.2. Upon request, Garver shall furnish Client a certificate of insurance evidencing the insurance coverages required in Exhibit C.

8. DOCUMENTS

8.1. Audit. Garver will retain all pertinent records for a period of three (3) years beyond completion of the Services. Client may have access to such records during normal business hours with three (3) business days advanced written notice. In no event shall Client be entitled to audit the make-up of lump sum or other fixed prices (e.g., agreed upon unit or hour rates).

8.2. Delivery. After completion of the Project, and prior to final payment, Garver shall deliver to the Client all Deliverables required under Exhibit A.

9. INDEMNIFICATION / WAIVERS

9.1. Indemnification.

9.1.1. Garver Indemnity. Subject to the limitations of liability set forth in Section 9.2, Garver agrees to indemnify and hold Client, and Client's Personnel harmless from Damages due to bodily injury (including death) or third-party tangible property damage to the extent such Damages are caused by the negligent acts, errors, or omissions of Garver or any other party for whom Garver is legally liable, in the performance of the Services under this Agreement.

9.1.2. Client Indemnity. Subject to the limitations of liability set forth in Section 9.2, Client agrees to indemnify and hold Garver and Garver's subconsultants and their Personnel harmless from Damages due to bodily injury (including death) or third-party tangible property damage to the extent caused by the negligent acts, errors, or omissions of Client or any other party for whom Client is legally liable, in the performance of Client's obligations under this Agreement.



9.1.3. In the event claims or Damages are found to be caused by the joint or concurrent negligence of Garver and the Client, they shall be borne by each Party in proportion to its own negligence.

9.2. Waivers. Notwithstanding any other provision to the contrary, the Parties agree as follows:

9.2.1. The Parties agree that any claim or suit for Damages made or filed against the other Party will be made or filed solely against Garver or Client respectively, or their successors or assigns, and that no Personnel shall be personally liable for Damages under any circumstances.

9.2.2. Mutual Waiver. To the fullest extent permitted by law, neither Client, Garver, nor their respective Personnel shall be liable for any consequential, special, incidental, indirect, punitive, or exemplary damages, or damages arising from or in connection with loss of use, loss of revenue or profit (actual or anticipated), loss by reason of shutdown or non-operation, increased cost of construction, cost of capital, cost of replacement power or customer claims, and Client hereby releases Garver, and Garver releases Client, from any such liability.

9.2.3. Limitation. In recognition of the relative risks and benefits of the Project to both the Client and Garver, Client hereby agrees that Garver's and its Personnel's total liability under the Agreement shall be limited to an amount equal to the amount of compensation actually received by Garver from Client.

9.2.4. No Other Warranties. No other warranties or causes of action of any kind, whether statutory, express or implied (including all warranties of merchantability and fitness for a particular purpose and all warranties arising from course of dealing or usage of trade) shall apply. Client's exclusive remedies and Garver's only obligations arising out of or in connection with defective Services (patent, latent or otherwise), whether based in contract, in tort (including negligence and strict liability), or otherwise, shall be those stated in the Agreement.

9.2.5. The limitations set forth in Section 9.2 apply regardless of whether the claim is based in contract, tort, or negligence including gross negligence, strict liability, warranty, indemnity, error and omission, or any other cause whatsoever.

10. DISPUTE RESOLUTION

10.1. Any controversy or claim ("**Dispute**") arising out of or relating to this Agreement or the breach thereof shall be resolved in accordance with the following:

10.1.1. Any Dispute that cannot be resolved by the project managers of Client and Garver may, at the request of either Party, be referred to the senior management of each Party. If the senior management of the Parties cannot resolve the Dispute within thirty (30) days after such request for referral, then either Party may request mediation. If both Parties agree to mediation, it shall be scheduled at a mutually agreeable time and place with a mediator agreed to by the Parties. Should mediation fail, should either Party refuse to participate in mediation, or should the scheduling of mediation be impractical, either Party may file for arbitration in lieu of litigation.



- 10.1.2. Arbitration of the Dispute shall be administered by the American Arbitration Association (“AAA”) in accordance with its Construction Industry Arbitration Rules. EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY AND ALL RIGHT TO TRIAL BY JURY. The arbitration shall be conducted by a single arbitrator, agreed to by the Parties. In no event may a demand for arbitration be made if the institution of legal or equitable proceedings based on such dispute is barred by the applicable statute of limitations.
- 10.1.3. The site of the arbitration shall be Little Rock, Arkansas. Each Party hereby consents to the jurisdiction of the federal and state courts within whose district the site of arbitration is located for purposes of enforcement of this arbitration provision, for provisional relief in aid of arbitration, and for enforcement of any award issued by the arbitrator.
- 10.1.4. To avoid multiple proceedings and the possibility of inconsistent results, either Party may seek to join third parties with an interest in the outcome of the arbitration or to consolidate arbitration under this Agreement with another arbitration. Within thirty (30) days of receiving written notice of such a joinder or consolidation, the other Party may object. In the event of such an objection, the arbitrator shall decide whether the third party may be joined and/or whether the arbitrations may be consolidated. The arbitrator shall consider whether any entity will suffer prejudice as a result of or denial of the proposed joinder or consolidation, whether the Parties may achieve complete relief in the absence of the proposed joinder or consolidation, and any other factors which the arbitrators conclude should factor on the decision.
- 10.1.5. The arbitrator shall have no authority to award punitive damages. Any award, order or judgment pursuant to the arbitration is final and may be entered and enforced in any court of competent jurisdiction.
- 10.1.6. The prevailing Party shall be entitled to recover its attorneys’ fees, costs, and expenses, including arbitrator fees and costs and AAA fees and costs.
- 10.1.7. The foregoing arbitration provisions shall be final and binding, construed and enforced in accordance with the Federal Arbitration Act, notwithstanding the provisions of this Agreement specifying the application of other law. Pending resolution of any Dispute, unless the Agreement is otherwise terminated, Garver shall continue to perform the Services under this Agreement that are not the subject of the Dispute, and Client shall continue to make all payments required under this Agreement that are not the subject of the Dispute.
- 10.1.8. Client and Garver further agree to use commercially reasonable efforts to include a similar dispute resolution provision in all agreements with independent contractors and subconsultants retained for the Project.
- 10.1. Litigation Assistance. This Agreement does not include costs of Garver for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by Client, unless litigation assistance has been expressly included as part of Services. In the event Client requests such services of Garver, this Agreement shall be amended in writing by both Client and Garver to account for the additional services and resulting cost in accordance with Section 4.



11. TERMINATION

- 11.1. Termination for Convenience. Client shall have the right at its sole discretion to terminate this Agreement for convenience at any time upon giving Garver ten (10) days' written notice. In the event of a termination for convenience, Garver shall bring any ongoing Services to an orderly cessation. Client shall compensate Garver in accordance with Exhibit B for: (i) all Services performed and reasonable costs incurred by Garver on or before Garver's receipt of the termination notice, including all outstanding and unpaid invoices, (ii) all costs reasonably incurred to bring such Services to an orderly cessation; and (iii) a cancellation fee equal to five percent (5%) of the value of the unperformed Services as a direct result of the termination.
- 11.2. Termination for Cause. This Agreement may be terminated by either Party in the event of failure by the other Party to perform any material obligation in accordance with the terms hereof. Prior to termination of this Agreement for cause, the terminating Party shall provide at least seven (7) business days written notice and a reasonable opportunity to cure to the non-performing Party. In all events of termination for cause due to an event of default by the Client, Client shall pay Garver for all Services properly performed prior to such termination in accordance with the terms, conditions and rates set forth in this Agreement.
- 11.3. Termination in the Event of Bankruptcy. Either Party may terminate this Agreement immediately upon notice to the other Party, and without incurring any liability, if the non-terminating Party has: (i) been adjudicated bankrupt; (ii) filed a voluntary petition in bankruptcy or had an involuntary petition filed against it in bankruptcy; (iii) made an assignment for the benefit of creditors; (iv) had a trustee or receiver appointed for it; (v) becomes insolvent; or (vi) any part of its property is put under receivership.

12. MISCELLANEOUS

- 12.1. Governing Law. This Agreement is governed by the laws of the State of Arkansas, without regard to its choice of law provisions.
- 12.2. Successors and Assigns. Client and Garver each bind themselves and their successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; neither Client nor Garver shall assign, sublet, or transfer their interest in this Agreement without the written consent of the other, which shall not be unreasonably withheld or delayed.
- 12.3. Independent Contractor. Garver is and at all times shall be deemed an independent contractor in the performance of the Services under this Agreement.
- 12.4. No Third-Party Beneficiaries. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than Client and Garver. This Agreement does not contemplate any third-party beneficiaries.
- 12.5. Entire Agreement. This Agreement constitutes the entire agreement between Client and Garver and supersedes all prior written or oral understandings and shall be interpreted as having been drafted by both Parties. This Agreement may be amended, supplemented, or modified only in writing by and executed by both Parties.
- 12.6. Severance. The illegality, unenforceability, or occurrence of any other event rendering a portion or provision of this Agreement void shall in no way affect the validity or enforceability



of any other portion or provision of the Agreement. Any void provision of this Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void.

12.7. Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together constitute one Agreement. Delivery of an executed counterpart of this Agreement by fax or transmitted electronically in legible form, shall be equally effective as delivery of a manually executed counterpart of this Agreement.

13. EXHIBITS

13.1. The following Exhibits are attached to and made a part of this Agreement:

- Exhibit A – Scope of Services
- Exhibit B – Compensation Schedule
- Exhibit C – Insurance
- Exhibit D – Survey Limits Map
- Exhibit E – Study Limits Map

Client and Garver, by signing this Agreement, acknowledges that they have independently assured themselves and confirms that they individually have examined all Exhibits, and agrees that all of the aforesaid Exhibits shall be considered a part of this Agreement and agrees to be bound to the terms, provisions, and other requirements thereof, unless specifically excluded.

Acceptance of this proposed Agreement is indicated by an authorized agent of the Client signing in the space provided below. Please return one signed original of this Agreement to Garver for our records.

[Signatures follow]

IN WITNESS WHEREOF, Client and Garver have executed this Agreement effective as of the date last written below.



City of Madison

Garver, LLC

By: _____
Signature

By: WEM
Signature

Name: **Paul Finley**
Printed Name

Name: Wm. Earl Mott, Jr. PE
Printed Name

Title: **Mayor**

Title: Vice President

Date: **April , 2023**

Date: April 10, 2023

Attest: _____
Lisa D. Thomas,
City Clerk-Treasurer

Attest: _____



EXHIBIT A (SCOPE OF SERVICES)

I. GENERAL

Generally, the scope of services includes surveying, analysis of existing stormwater infrastructure, improvements and design recommendations, construction plans, and bidding services. Improvements will consist primarily of channel improvements along the major drainage ways in the Stavemill Estates subdivision, in the area west of Shelton Road, north of Norfolk Southern Railroad and south of Old Madison Pike, within the City of Madison, Alabama.

II. SURVEYS

A. *Design Surveys*

Garver will provide field survey data for designing the Project, and this survey will be tied to the Owner's control network. Extents of the survey are shown in Exhibit D.

Garver will conduct field surveys, utilizing GPS topography methods, at intervals and for distances at and/or along the Project site as appropriate for modeling the existing ground, including locations of pertinent features or improvements. Garver will locate buildings and other structures, streets, drainage features, trees over eight inches in diameter, visible utilities as well as those underground utilities marked by their owners and/or representatives, and any other pertinent topographic features that may be present at and/or along the Project site that could be impacted by selected improvements. Garver will establish control points for use during construction.

B. *Property Surveys*

Garver will locate existing monumentation representing right of way and/or easements based on readily available data. No title work is being performed under this agreement.

III. GEOTECHNICAL SERVICES

Geotechnical is anticipated for the completion of the project but not included in this scope of services. Any information provided by Owner to Garver is assumed as correct.

IV. COORDINATION

Garver will furnish plans to all known utility owners potentially affected by the Project at each stage of development. Garver shall conduct coordination meetings among all known affected utility owners to enable them to coordinate efforts for any necessary utility relocations. Garver will include the surveyed locations of the observable and marked utilities in the construction plans. Garver will also include proposed and/or relocated utility information in the construction plans as provided by the utility companies. Garver will also attend 4 coordination meetings with the Owner and other agencies as required. Garver will prepare exhibits for these meetings when appropriate.



V. ENVIRONMENTAL SERVICES

Environmental Services are anticipated for the completion of the Project but not included in this scope of services. Any information provided by Owner to Garver is assumed as correct.

VI. DRAINAGE STUDY

Methodology will be selected by Garver but will be as permitted in the Owner's Drainage Criteria Manual. Modeling parameters, such as areas, slopes, drainage paths, and distances will be obtained from Owner-provided planimetric contour maps and aerial photos and verified by field investigations. Runoff characteristics for non-developed areas will be based on current land-use plans. The area of study consists of approximately 382 Acres, lying within the City Limits of the City of Madison. The proposed study limits are shown on Exhibit E.

Garver will develop a drainage report including the following:

- A. Analysis of Primary Drainage Ways and Major Crossings within the study area
- B. Propose recommendations for improvements to existing channels and crossings and state the benefit of each improvement.

VII. CONCEPTUAL DESIGN

The conceptual design phase submittal will include proposed channel and crossing improvements and recommendations, construction phasing recommendations, and an opinion of probable construction cost. This conceptual submittal will be for the purpose of coordinating the proposed improvements with the Owner and the utility companies and developing an order of magnitude cost estimate for the Project and determine how to phase the construction based on available funding and other resources. Garver will incorporate comments from the Owner in the Preliminary Design. Garver will proceed with Preliminary Design of the improvements after the Conceptual Design is approved by the Owner in writing.

VIII. PRELIMINARY DESIGN

Once Garver receives written approval from Owner on Conceptual Design, Garver will begin Preliminary Design. The Preliminary Design phase submittal will include proposed channel modifications, channel cross sections, typical sections, construction details, and an opinion of probable construction cost. The Preliminary Design phase review will determine the appropriate phasing of construction for this project. The preliminary design phase will represent approximately 60 percent of final construction contract plans. This submittal will not include technical specifications or "front end" contract documents. Garver will incorporate comments from the Owner on the Preliminary Design in the Final Design. Garver will proceed with Final Design after the Preliminary Design is approved by the Owner in writing.

IX. FINAL DESIGN

Once Garver receives written approval from Owner on Preliminary Design, Garver will begin Final Design for Phase 1 of the Project. During the final design phase of the Project, Garver will conduct final designs to prepare construction plans, for one construction contract, including final construction details and quantities, special provisions, and opinion of probable construction cost. Garver will also make final field inspection with Owner, make any needed plan changes as a result of the final field inspection and/or special easement acquisition considerations, and prepare the construction documents as required to advertise for bids. Garver will also prepare and submit ADEM permit for Phase 1 construction.



X. PROPERTY ACQUISITION DOCUMENTS

Garver will provide mapping as required for preparing Right of Way/Easement acquisition documents for the Owner's use in acquiring the property. Documentation will include a key map showing all affected properties and an individual tract map with description of temporary and permanent acquisition for each property. The fee for providing property acquisition documentation is not included in this proposal, but can be provided through a modification to this contract, based on permanent right of way and/or temporary construction easements deemed necessary for completion of the Project. Property acquisition document preparation will begin after receiving the Owner's comments from the Preliminary Design review and authorization of additional services for these efforts.

XI. Bidding Services

During the bidding phase of the Project, Garver will:

- A. Prepare Advertisement for Bids for publication as directed by the Owner. Owner will pay advertising costs outside of this contract.
- B. Dispense construction contract documents to prospective bidders (at the approximate cost of reproduction and handling).
- C. Support the contract documents by preparing addenda as appropriate.
- D. Participate in a pre-bid meeting if necessary.
- E. Attend the bid opening.
- F. Prepare bid tabulation.
- G. Evaluate bids and recommend award.

XII. CONSTRUCTION PHASE SERVICES

Construction Phase Services are anticipated for the completion of the Project but not included in this scope of services. Any information provided by Owner to Garver is assumed as correct.

XIII. PROJECT DELIVERABLES

The following will be submitted to the Owner, or others as indicated, by Garver:

- A. Digital copies of the Drainage Report.
- B. Digital copies of the Conceptual Design with opinion of probable construction cost.
- C. Digital copies of the Preliminary Design with opinion of probable construction cost.
- D. Digital copy of the Preliminary Plans to each potentially affected utility company.
- E. Digital copies of the Final Design with opinion of probable construction cost.
- F. Digital copies of the revised Final Design with opinion of probable construction cost.
- G. Digital copy of the revised Final Plans to each potentially affected utility company.
- H. Three copies of the Final Plans and Specifications to the Contractor.
- I. Digital copies of approved shop drawings/submittals from the Contractor.
- J. One hard copy set of Record Drawings.
- K. Other Electronic files as requested.

XIV. EXTRA WORK

The following items are not included under this agreement but will be considered as extra work:

- A. Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.



- B. Submittals or deliverables in addition to those listed herein.
- C. Pavement Design beyond that furnished in the Geotechnical Report.
- D. Design of any utilities relocation.
- E. Retaining walls or other significant structural design.
- F. Street lighting or other electrical design.
- G. Preparation of a Storm Water Pollution Prevention Plan (SWPPP). The construction contract documents will require the Contractor to prepare, maintain, and submit a SWPPP to ADEM.
- H. Construction materials testing.
- I. Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
- J. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
- K. Acquisition Documents for U&D or Temporary Construction Easements

Extra Work will be as directed by the Owner in writing for an addition fee as agreed upon by the Owner and Garver.

XV. SCHEDULE

Garver shall begin work under this Agreement within ten (10) days of a Notice to Proceed and shall complete the work based on mutually agreeable schedule.



**EXHIBIT B
(COMPENSATION SCHEDULE)**

The table below presents a summary of the fee amounts and fee types for this Agreement.

WORK DESCRIPTION	FEE AMOUNT	FEE TYPE
Project Management	\$6,960	LUMP SUM
Boundary Surveys	\$11,760	LUMP SUM
Topographic Surveys	\$18,805	LUMP SUM
Drainage Analysis and Report	\$22,300	LUMP SUM
Preliminary Design	\$23,300	LUMP SUM
Phase 1 Construction Plans	\$42,105	LUMP SUM
TOTAL FEE	\$125,230.00	

The lump sum amount to be paid under this Agreement is **\$125,230**. For informational purposes, a breakdown of Garver's estimated costs is included in this Exhibit B with approximate current hourly rates for each employee classification.

Any unused portion of the fee, due to delays beyond Garver's control, will be increased six percent (6%) annually with the first increase effective on or about January 31, 2024.

Additional Services (Extra Work). For services not described or included in Section 2, but requested by the Client in writing or otherwise permitted under Section 4, the Client will pay Garver as expressly set forth in the applicable Amendment, or in the event the Amendment is silent, for the additional time spent on the Project, at the agreed upon rates for each classification of Garver's personnel (may include contract staff classified at Garver's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. The agreed upon rates will be increased annually with the first increase effective on or about [month day, year].

Garver shall provide Client notice when Garver is within ten percent (10%) of the not-to-exceed amount. In which event, Client may direct Garver to proceed with the Services up to the not-to-exceed budgetary threshold before ceasing performance of the Services or increase the not-to-exceed amount with notice to Garver. Underruns in any phase may be used to offset overruns in another phase as long as the overall Agreement amount is not exceeded. In no event shall the not-to-exceed amount be interpreted as a guarantee the Services can be performed for the not-to-exceed budgetary threshold.



Exhibit B - Fee Estimate
Garver - Estimated Hours and Anticipated Personnel
 Professional Services Fee estimate for Stavemill Estates Drainage Improvements
 Garver Project No. 23S02160
 28-Mar-23

	Project Manager, E5	Project Engineer, E4	Project Engineer/ Landscape Architect, E3	Project Engineer, E2	Project Engineer, E1	Sr. Project Surveyor S5	Survey Crew (2- man) GPS	Technician, T2	Project Surveyor, S4	Construction Observer C4	Construction Observer C1	Cost
ITEM	@ \$235/HR	@ \$200/HR	@ \$168/HR	@ \$148/HR	@ \$120/HR	@ \$185/HR	@ \$230/HR	@ \$115/HR	@ \$120/HR	@ \$250/HR	@ \$110/HR	
Project management and team coordination												
Project management and team coordination	8											\$1,880.00
QC/QC	8	16										\$5,080.00
Sub-Total Route Alignment Planning and Preliminary Design												\$6,960.00
Property Boundary Tasks												
Project management						8						\$1,480.00
Deed and records research						4						\$740.00
Field reconnaissance - Locate Property Corners to establish boundary lines and easement locations within areas of proposed improvements							24					\$5,520.00
Establish Project Survey Control						4	8	2				\$2,810.00
QA/QC	2					4						\$1,210.00
Sub-Total Property Boundary Tasks												\$11,760.00
Topographic Surveys for Plan and Profile												
Project Management	1					8						\$1,715.00
Compile Existing Lidar data and build surface models	8											\$1,880.00
Field data collection for storm drains, ditch profiles, and visible utilities within areas of proposed improvements						8	40					\$10,680.00
Process field data						4		16				\$2,580.00
QA/QC	2					8						\$1,950.00
Total for Topographic Surveys for Plan and Profile												\$18,805.00
Drainage Analysis and Report												
Analyse the major crossing and ditches within the study area	8	24			40							\$11,480.00
Prepare report with findings from the existing drainage analysis and provide options for improvements within the study area with the benefits/gains for each improvement	8	16			40							\$9,880.00
QA/QC	4											\$940.00
Sub-Total Environmental and Geotechnical Services												\$22,300.00
Preliminary Design												
QA/QC/Coordination Meetings	4											\$940.00
Modeling proposed channel and crossing improvements	4	24			80							\$15,340.00
Construction Phasing and Cost Estimates	4	16			24							\$7,020.00
Sub-total Develop and Produce Construction Plans Development												\$23,300.00
Construction Plans and Documents for Phase 1 Improvements												
QA/QC/Coordination Meetings	8											\$1,880.00
Prepare Grading Plans for Phase 1 Improvements	2	24			80							\$14,870.00
Prepare Plan and Profile Sheets for channel improvements and/or drainage crossings	2	8			24							\$4,950.00
Prepare Erosion Control Plans and Details for Phase 1	2	4			24							\$4,150.00
Prepare Construction Sequencing and Traffic Control Plans	2	16			40							\$8,470.00
Prepare and Submit ADEM Permit (Monitoring By Others or Under Separate Agreements)	1	1			4							\$915.00
Quantity Take-offs, estimates, special provisions, and bidding documents	2	8			40							\$6,870.00
Sub-total Develop and Produce Construction Plans Development												\$42,105.00
Lump Sum Total =											Lump Sum Total =	\$125,230.00
Construction Administration Services												
Not in scope												\$0.00
Sub-total Construction Administration Services												\$0.00
Total Hours	80	157	0	0	396	48	72	18	0	0	0	
Hourly Rate	\$235.00	\$200.00	\$168.00	\$148.00	\$120.00	\$185.00	\$230.00	\$115.00	\$120.00	\$250.00	\$110.00	
Cost	\$18,800.00	\$31,400.00	\$0.00	\$0.00	\$47,520.00	\$8,880.00	\$16,560.00	\$2,070.00	\$0.00	\$0.00	\$0.00	
GRAND TOTAL =											\$125,230.00	



AGREED UPON RATES

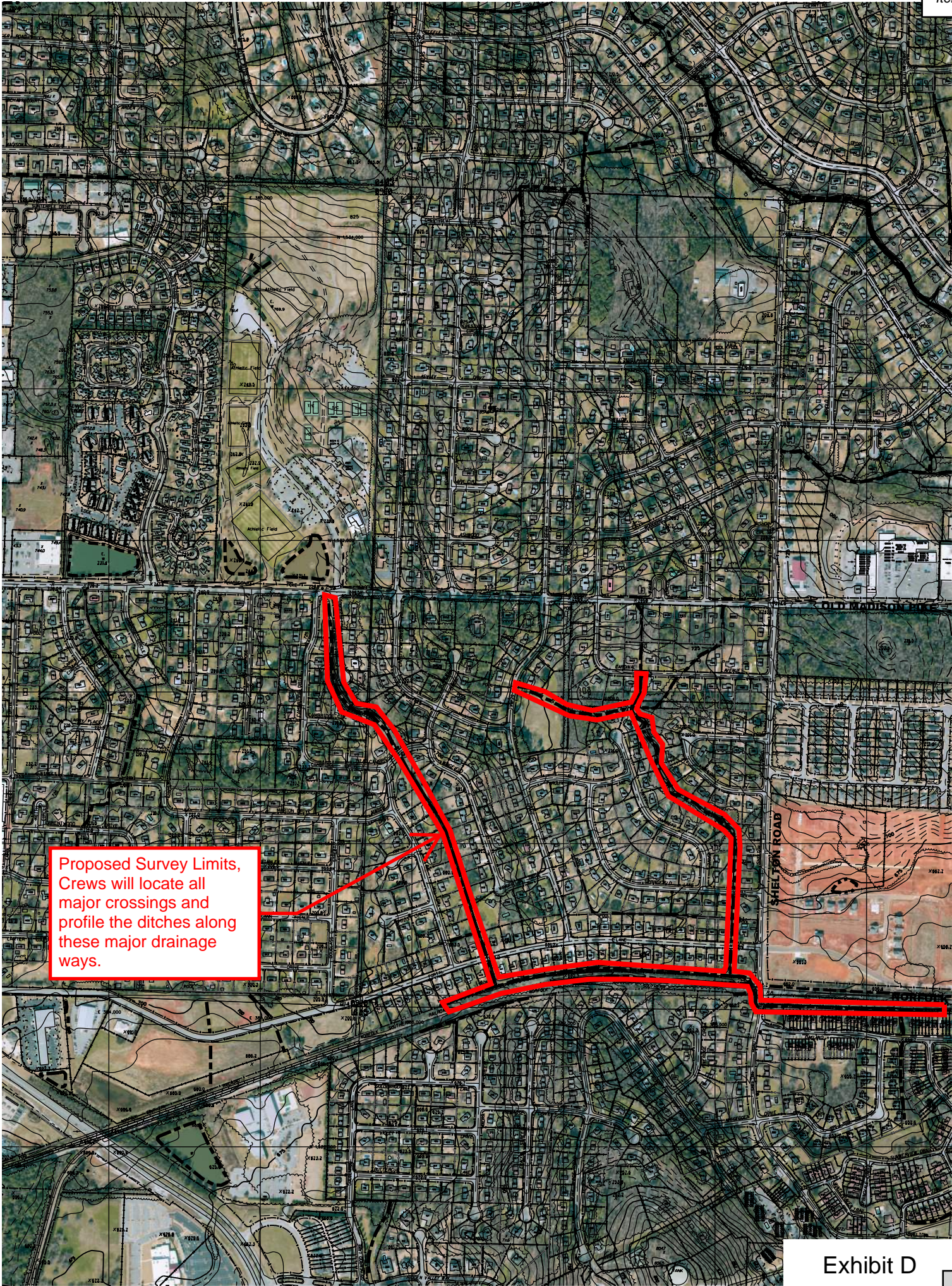
Classification	Rates
Engineers / Architects	
E-1	\$ 120.00
E-2	\$ 148.00
E-3	\$ 168.00
E-4	\$ 200.00
E-5	\$ 235.00
E-6	\$ 275.00
Designers	
D-1	\$ 115.00
D-2	\$ 137.00
D-3	\$ 155.00
Technicians	
T-1	\$ 100.00
T-2	\$ 115.00
T-3	\$ 135.00
Surveyors	
S-1	\$ 56.00
S-2	\$ 71.00
S-3	\$ 90.00
S-4	\$ 120.00
S-5	\$ 185.00
S-6	\$ 205.00
2-Man Crew (Survey)	\$ 210.00
3-Man Crew (Survey)	\$ 255.00
2-Man Crew (GPS Survey)	\$ 230.00
3-Man Crew (GPS Survey)	\$ 280.00
Construction Observation	
C-1	\$ 110.00
C-2	\$ 145.00
C-3	\$ 195.00
C-4	\$ 250.00
C-5	\$ 285.00
Management / Administration	
AM-1	\$ 57.00
AM-2	\$ 90.00
AM-3	\$ 120.00



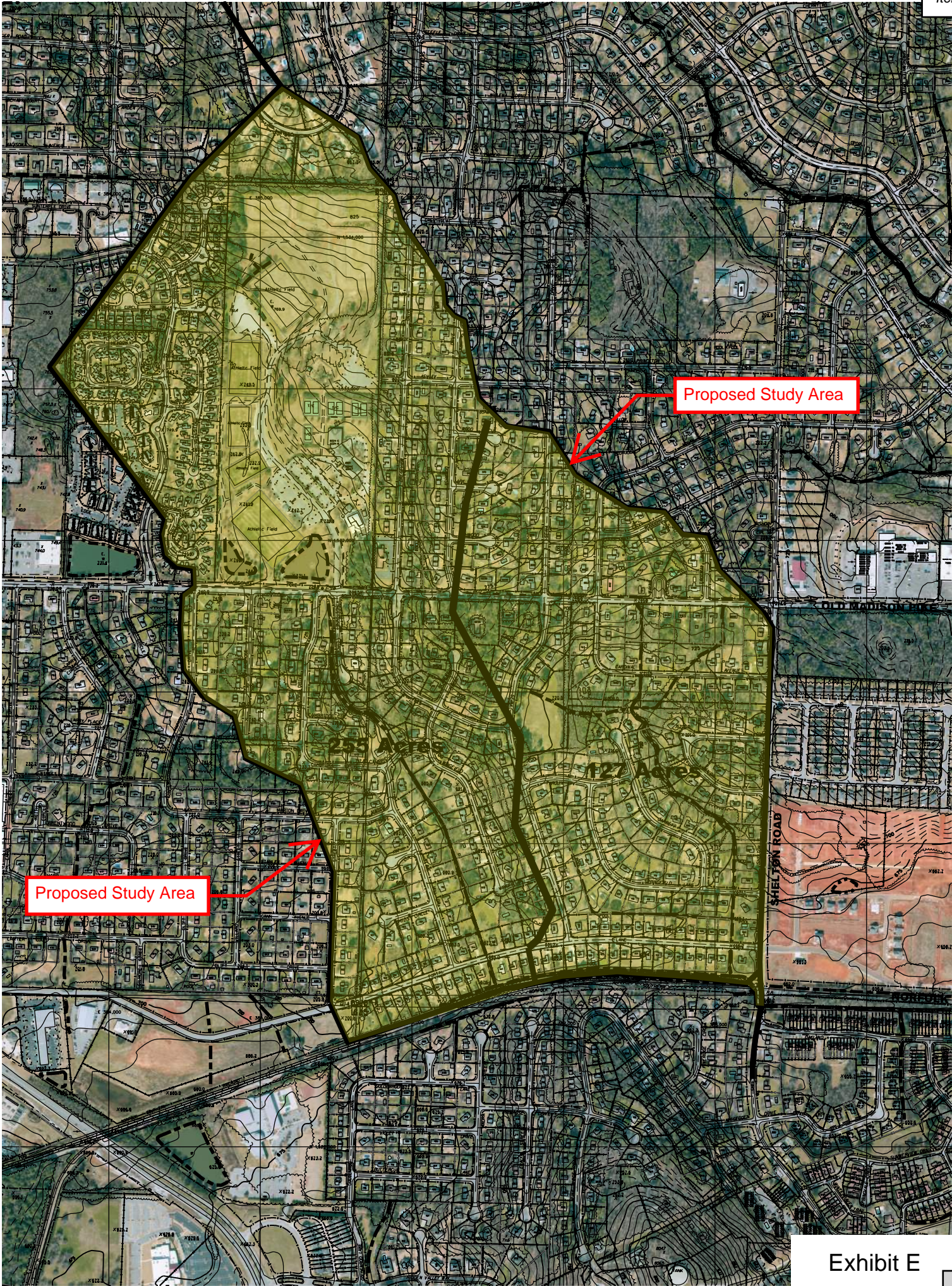
**EXHIBIT C
(INSURANCE)**

Pursuant to Section 7.1 of the Agreement, Garver shall maintain the following schedule of insurance until completion of the Services:

Worker's Compensation	Statutory Limit
Automobile Liability	
Combined Single Limit (Bodily Injury and Property Damage)	\$500,000
General Liability	
Each Occurrence	\$1,000,000
Aggregate	\$2,000,000
Professional Liability	
Each Claim Made	\$1,000,000
Annual Aggregate	\$2,000,000
Excess of Umbrella Liability	
Per Occurrence	\$1,000,000
General Aggregate	\$1,000,000



Proposed Survey Limits,
Crews will locate all
major crossings and
profile the ditches along
these major drainage
ways.



Proposed Study Area

Proposed Study Area

RESOLUTION NO. 2023-150-R

**A RESOLUTION AUTHORIZING A LEASE AGREEMENT WITH
HUNTSVILLE EMERGENCY MEDICAL SERVICES**

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that the Mayor is authorized and directed to execute a Lease Agreement (“Agreement”) with Huntsville Emergency Medical Services, Inc., (“HEMSI”) for the lease of an ambulance, as well as the accessories, equipment, and systems incorporated within and affixed to it, said Agreement to be substantially similar in purpose, intent, and composition as that document attached hereto and identified as “Ambulance Lease 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 Agreement, the Mayor or his designee shall be hereby authorized for the entire term thereof to execute any and all documentation necessary to enforce and comply with its terms, subject to the budgetary restrictions set forth by the Council in its duly 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 HEMSI 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 24th day of April 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 April, 2023.

Paul Finley, Mayor
City of Madison, Alabama

**RENEWAL OF AMBULANCE LEASE AGREEMENT
BY AND BETWEEN THE CITY OF MADISON AND HEMSI**

Vehicle Type: Ambulance

Model: 2018 Ford E-450 Ambulance

VIN#: 1FDXE4FS2JDC23212

Terms and Conditions

This Lease Agreement is renewal of a lease entered into in April 2022 between the parties, and is effective as of the 24th day of April 2023, by and between the City of Madison, Alabama, a municipal corporation (“City”), and Huntsville Emergency Medical Services, Inc. (“HEMSI”). HEMSI hereby leases to City, and City hereby leases and rents from HEMSI, the ambulance described above (hereinafter referred to as “Ambulance”), together with all accessories, equipment, and systems incorporated therein and/or affixed thereto. This Lease is entered into upon the following terms and conditions:

1. No Warranties by HEMSI.

City acknowledges that HEMSI is neither the manufacturer of the Ambulance nor the agent of that manufacturer. City further acknowledges that HEMSI has not made, and does not make any warranty or representation, either express or implied, or any kind whatsoever with respect to the Ambulance, including but not limited to: (i) as to the design of the Ambulance; (ii) as to the merchantability of the Ambulance; (iii) as to the quality or capacity of the Ambulance, the materials in the Ambulance, or workmanship in the Ambulance; (iv) as to any latent defects in the Ambulance; and (v) as to the compliance of the Ambulance with any requirements of any law, rule, specification, or contract pertaining thereto. City further acknowledges that City is leasing the Ambulance from HEMSI in an “as is” condition and that no defect or unfitness of the Ambulance shall relieve City or City’s obligation to pay rent or any other obligation City may have to HEMSI under the terms of this lease.

If the Ambulance has any remaining manufacturer’s warranty and the Ambulance does not operate as represented or warranted by the manufacturer or the supplier or is unsatisfactory for any reason, City shall make a claim on account thereof solely against the supplier or manufacturer and shall, nevertheless, pay all rent payable hereunder. As between City and HEMSI, and only in those instances where the manufacturer of the Ambulance has provided any warranty or guarantee of any nature whatsoever applicable to the Ambulance, HEMSI hereby assigns to City whatever assignable interest HEMSI may have in such warranty or guarantee. The aforesaid assignment shall not in any way be deemed to limit, negate, or otherwise affect the disclaimer of warranties contained in the preceding paragraph, and HEMSI shall not incur any duties arising out of any manufacturer’s warranties or guarantees. Further, HEMSI shall not incur any liability whatsoever

arising out of any breach of any manufacturer’s warranties or guarantees applicable to the Ambulance.

2. **No Oral Agreement.**

The terms of this lease shall not be changed or modified except in writing executed by HEMSI and City.

3. **Current Condition Accepted.**

City agrees that (i) the Ambulance is in full compliance with the terms of this Lease; (ii) the Ambulance is in good condition (operating and otherwise) and repair; and (iii) City has inspected and accepted the Ambulance. If HEMSI shall request, City shall furnish HEMSI a written statement setting forth the matters stated in (i), (ii), and (iii) of this paragraph.

4. **Delivery and Inspection.**

Delivery was made to City at the time of delivery of the Ambulance under the initial lease agreement entered into between the parties in April 2023. City’s execution of this lease is its acknowledgement that (i) City has fully inspected the Ambulance; (ii) the Ambulance is in full compliance with the terms of this Lease; (iii) the Ambulance is in good condition (operating and otherwise) and repair; and (iv) City has accepted the Ambulance. If HEMSI shall request City shall furnish HEMSI a written statement setting forth the matters stated in (i), (ii), (iii), and (iv) of this paragraph and also approving the invoice of the Ambulance or portion thereof.

5. **Termination.**

Either party shall have the option to terminate this Lease and related obligations by giving the other party thirty (30) days’ written notice.

6. **Term.**

The term of this Lease commences upon the above effective date and shall expire one (1) year after the effective date. The City will return the Ambulance to HEMSI at the conclusion of that one year period. To the extent that the City chooses to seek an additional Lease for another ambulance at the conclusion of the term of this Lease, HEMSI agrees to enter into negotiations for such Lease upon the City’s request.

7. **Rent.**

During the term of this Lease, City agrees to pay rent in the amount of one dollar (\$1.00) for the term of the lease which rental payment shall be due on May 1, 2023. Rent shall be due whether or not City has received any notice that such payments are due.

8. **Ownership; Personal Property.**

The Ambulance is, and shall at all times remain, the property of HEMSI, and City shall have no right, title, or interest in or to the Ambulance except as expressly set forth in this Lease.

9. **Duties of City.**

During the term of this lease, City shall have sole responsibility for providing and re-supplying the necessary medical supplies as needed for transports undertaken by the City. City agrees to mark the Ambulance such that it reflects that it is operated and maintained solely by City, without any indicia of ownership or control of the Ambulance by HEMSI. The City has re-painted the Ambulance to reflect its use by the City. City shall be responsible for the cost of re-painting it to HEMSI's specifications upon expiration or termination of this Lease. Other than equipment provided with the Ambulance as referenced in paragraph 10 below, the City shall have sole responsibility for outfitting the Ambulance as needed for transports undertaken by the City during the term of the Lease, including provision of all portable EMS equipment. City agrees to provide a crew to operate the Ambulance and to provide fuel for its operation.

10. **Duties of HEMSI**

HEMSI will leave installed equipment in the Ambulance, including but not limited to a stretcher, Mobile Data Terminal and associated equipment such as a mobile router with GPS and traffic pre-emption system, and radios. All such equipment shall remain the property of HEMSI and the City shall have no right, title, or interest in same, which is due to be returned to HEMSI at the expiration or termination of the lease in the same condition provided at the commencement of the lease, normal wear and tear excepted. HEMSI has a maintenance contract in place for the Stryker Power Pro Stretcher and Stryker Power Load system. HEMSI will continue to maintain these items on the Ambulance to the extent that any required maintenance is covered by HEMSI's maintenance contract.

11. **Repairs; Use; Alterations.**

HEMSI agrees to keep the Ambulance in good working condition and shall repair and furnish all labor, parts, mechanisms, and devices required therefor. In the event that the Ambulance shall become unavailable for use by City during this Lease as a result of a need for repairs, HEMSI agrees to provide a substitute ambulance on a temporary basis to the extent that it has another ambulance available. City shall not make any alterations, additions, or improvements to the Ambulance without HEMSI's prior written consent. All additions, repairs, replacement parts, accessories, or improvements made to the Ambulance shall not be removed without HEMSI's prior written consent. City shall use the Ambulance in a careful and lawful manner.

12. **Surrender.**

At the expiration or other termination of this lease or upon written notice and demand, City, at City's expense, shall immediately return the Ambulance in as good condition as received less normal wear, tear, and depreciation. Absent a written notice and demand, and notwithstanding the expiration of the lease, if City maintains possession of the Ambulance after such expiration, this lease will be considered to continue on a month-to-month basis as set out in Paragraph 6.

13. **Insurance.**

City shall, at City's own expense, insure the Ambulance at all times against all hazards. Any such insurance policies shall be payable to HEMSI as HEMSI's interest may appear. Such insurance policies or certificates thereof shall be delivered by City to HEMSI, upon request.

14. **Loss or Damage.**

While the Ambulance is in City's possession, City shall bear the entire risk of loss, theft, destruction, or damage of the Ambulance or any portion thereof from any cause whatsoever. If the Ambulance is totally destroyed, the liability of City to pay rent therefor may be discharged by paying HEMSI all the rent due and to become due thereon, and the proceeds of the replacement value of the Ambulance to be paid by City's insurance carrier for the total loss of the Ambulance. HEMSI acknowledges that City's insurance carrier will pay for a loss in any one accident at the lesser of (1) the actual cash value of the damaged or stolen property as of the time of the loss; or (2) the cost of repairing or replacing the damaged or stolen property with other property of like kind and quality. HEMSI shall not be obligated to undertake, by litigation or otherwise, the collection of any claim against any person for loss or damage of the Ambulance.

15. **Liens; Taxes.**

City shall keep the Ambulance free and clear of all liens, and encumbrances. City shall, in the manner directed by HEMSI: (i) make and file all declarations and returns in connection with all charges and taxes (local, state, and federal), which may now or hereafter be imposed upon or measured by the ownership, leasing, rental, sale, purchase, possession, or use of the Ambulance; and (ii) pay all such charges and taxes, except, however, that HEMSI shall acquire and pay for the required license tag for the vehicle.

16. **HEMSI’s Performance of City’s Obligations.**

If City fails to duly and properly perform any of its obligations under this Lease with respect to the Ambulance, HEMSI may (at HEMSI’s option) perform any act or make any payment which HEMSI deems necessary for the preservation of the Ambulance and HEMSI’s title thereto, including payment for satisfaction of liens, taxes, and insurance, and all sums so paid or incurred by HEMSI, together with any reasonable legal fees incurred by HEMSI in connection therewith, shall be additional rent under this Lease and payable by City to HEMSI within thirty (30) days of HEMSI’s demand. The performance of any act or payment by HEMSI as aforesaid shall not be deemed a waiver or release of any obligation or default on the part of City

17. **Indemnity.**

City assumes the risk of liability arising from or pertaining to the possession, operation, or use of the Ambulance. To the extent allowed by law, City does hereby agree to indemnify, hold harmless, and defend HEMSI from, any and all claims, costs, expenses, damages, and liabilities arising from the City’s use, possession, or operation of the Ambulance.

18. **Assignment; Offset.**

Without HEMSI’s prior written consent, City shall not (i) assign, transfer, pledge or otherwise dispose of this Lease, the Ambulance, or any interest therein; or (ii) sublet or lend the Ambulance or permit it to be used by anyone other than City or City’s employees.

19. **Default.**

A. If City fails to pay when due any rent payment or other amount required herein to be paid by City, or if City makes an assignment for the benefit of creditors, whether voluntary or involuntary, or if City shall make a bulk transfer of any of City’s assets, or if City discontinues City’s normal business operations including running calls with the Ambulance for a period of twenty-five (25) days or more, or if a petition is filed by or against City under the bankruptcy laws of the United States, HEMSI shall have the right to exercise any one or more of the following remedies in order to protect the interests of HEMSI:

- 1. HEMSI may recover from City all rent payments and other amounts then due and as they shall thereafter become due hereunder;
- 2. HEMSI may take possession of the Ambulance, wherever located, without demand or notice, without any court order or other process of law, and without liability to City for any damages occasioned by such taking or possession.
- 3. HEMSI may pursue any other remedy at law or in equity.

B. No right or remedy herein conferred upon or reserved to either party is exclusive of any right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time, but neither party shall be entitled to recover a greater amount in damages than that party could have gained by receipt of the other party's full, timely, and complete performance of its obligations pursuant to the terms of this Lease.

21. **Miscellaneous.**

A. This Agreement or any agreement or document executed and delivered in connection with this Agreement shall be deemed to have been served properly if hand delivered or sent by overnight express, charges prepaid and properly addressed to the respective party to whom such notice relates at the following addresses:

If to HEMSI:
Attention: Jon Howell
Huntsville Emergency Medical Services, Inc.
2700 6th Avenue, Southwest
Huntsville, Alabama 35805

With a Copy to:
William W. Sanderson, Jr., Esq.
Lanier Ford Shaver & Payne P.C.
Post Office Box 2087
Huntsville, Alabama 35804

If to City:
Attention: Paul Finley
Mayor, City of Madison
Madison Municipal Complex
100 Hughes Road
Madison, Alabama 35758

With a Copy to:
Brian Kilgore, Esq.
City Attorney, City of Madison
Madison Municipal Complex
100 Hughes Road
Madison, Alabama 35758

or such other address as shall be furnished in writing by any party to the other party. All such notices shall be considered received when hand delivered or one day after delivered to the overnight courier.

B. Each party hereby agrees to perform any further acts and to execute and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.

C. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Alabama.

D. This instrument contains the entire agreement of the parties and supersedes any and all prior agreements between the parties, written or oral, with respect to the transactions contemplated hereby. This Agreement may not be changed or terminated orally but may only be changed by an agreement in writing signed by the party or parties against whom enforcement of any waiver, change, modification, extension, discharge or termination is sought.

E. This Agreement may be executed in several counterparts, each of which, when so executed, shall be deemed to be an original, and such counterparts shall, together, constitute and be one and the same instrument.

F. The parties agree to provide and maintain, at a minimum \$1,000,000 per occurrence and \$3,000,000 in the aggregate in liability insurance and will provide a Certificate of Insurance upon request.

G. The parties agree to maintain strict patient, physician and hospital confidentiality. Any breach of confidentiality may result in the immediate cancellation of the contract.

H. The parties each warrant that it has not been excluded from any federal health care program (as defined in 42 U.S.C. §1320a-7b(7) and that, to the parties' knowledge, it is not currently under investigation of the subject of any proceeding which could lead to its exclusion from any Federal health care program. Each party agrees to notify the other party in writing of any investigation, proceeding or other action by a regulatory authority, which results in or could lead to the exclusion of the party from any Federal health care program, such written notice to be sent to the other party no later than fifteen (15) days after the party receives notice of such. By invoicing HEMSI or by receiving and collecting payments from City, Vendor warrants that it is not then excluded from any Federal health care program and agrees, to the extent provided by Alabama law, to indemnify and hold HEMSI harmless from loss, liability, cost or expense arising from the breach of such warranty.

I. Each party is responsible for protecting the security and privacy of all protected health information that is obtained, handled, learned, heard or viewed in the course of its association with each other under this Lease.

22. **Immigration Law.**

By signing this Agreement, 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 any 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.

23. **Representation.**

Acknowledgment and Waiver Regarding Representation. Each party to this Agreement, after disclosure and consultation, consents to representation of HEMSI in connection with this Lease by LANIER FORD SHAVER & PAYNE P.C. ("LFSP") notwithstanding representation of City by LFSP in unrelated matters. The parties acknowledge that due to their general alignment of interests with respect to this Agreement, the representation of HEMSI by LFSP, both generally and in connection with this Lease while LFSP represents City in unrelated matters, is acceptable

to all parties and any perceived conflict of interest is waived. It is understood by each party that in the event of any future conflict or dispute regarding any interpretation of this Agreement, attorneys at LFSP cannot under applicable rules of professional responsibility, represent any party hereto with respect to such conflict or dispute. The parties hereto, however, give their consent to continued representation of each party by LFSP in unrelated matters.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the ____ day of April , 2023.

HUNTSVILLE EMERGENCY MEDICAL SERVICES, INC.
LESSOR

CITY OF MADISON, ALABAMA,
LESSEE

By: _____
Jon Howell, Chief Executive Officer

By: _____
Paul Finley, Mayor

ATTEST: _____
Lisa Thomas, City Clerk

RESOLUTION NO. 2023-148-R

**A RESOLUTION AUTHORIZING AGREEMENT FOR
TUITION PAYMENT, RETENTION, & REIMBURSEMENT
FOR I.T. CYBERSECURITY TRAINING**

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that the Mayor is authorized and directed to execute a Tuition Payment, Retention, & Reimbursement Agreement with Garrett Gillott, an employee in the City’s Information Technology Department, for him to obtain a degree in cybersecurity and information assurance, said Agreement to be substantially similar in purpose, intent, and composition to that certain document attached to this Resolution 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 relationship established by such acceptance and execution, 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 duly-adopted budget for the then-current fiscal year; and

BE IT FURTHER RESOLVED that, upon request and notification from the IT Department that the Agreement has been executed, and tuition is due to be paid, the Finance Director is hereby authorized to forward payment to Western Governors University in the amount(s) and manner authorized by the Agreement accepted 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 24th day of April, 2023.

ATTEST:

Ranae Bartlett, Council President
City of Madison, Alabama

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

APPROVED this _____ day of April, 2023.

Paul Finley, Mayor
City of Madison, Alabama

TUITION PAYMENT, RETENTION, & REIMBURSEMENT AGREEMENT

THIS AGREEMENT for tuition payment and reimbursement (“Agreement”) is made and entered into 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 Garrett Gillott, Information Technology Support Technician, hereinafter referred to as “Employee.”

WHEREAS, the City desires to ensure that it bolsters its computer network security by providing additional training opportunities for City Information Technology Department (“IT Department”) staff; and

WHEREAS, Employee has been accepted to the online cybersecurity and information assurance degree program (“Program”) of Western Governors University (“WGU”); and

WHEREAS, City desires to pay for Employee’s training and to assure retention of Employee or reimbursement of tuition expenses in the event that Employee leaves employment with the City; and

WHEREAS, the Program is directly related to Employee’s current duties, as well as the City’s future staffing needs, which the IT Department has articulated based on its strategic plans;

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

1. **TUITION PAYMENT:** City agrees to pay WGU directly for Employee’s educational courses in an amount not to exceed seventeen thousand two hundred dollars (\$17,200), which represents the cost to complete the Program in two (2) years.
 - A. Funding shall come from the IT Department’s training budget and will remain subject to City Council budget approvals for the fiscal years of Employee’s study.
 - B. Employee shall not be compensated for meals, travel, or lodging expenses incurred in the execution of the terms of this Agreement without prior written approval of City, such approval to be given at the sole discretion of the Information Technology Director.
 - C. Employee shall provide documentation of each class that he completes to the Information Technology Director within thirty (30) days of receiving final grades for said class.
 - D. City may require the submission of additional information, details, or justifications for any request for payment that Employee makes during the course of study.

2. **RETENTION & REIMBURSEMENT:** Employee agrees to continue his employment with the City for a total of four (4) years after he receives his degree from the WGU

Program (“Retention Period”). In the event that Employee voluntarily or involuntarily discontinues employment with the City prior to completion of the Program or the expiration of the Retention Period, Employee shall reimburse the City as follows:

- A. If Employee voluntarily terminates employment with City prior to Program completion or within six months after Program completion, or if City terminates the Employee for cause as provided in the City’s Personnel Policies and Procedures at any time during the Retention Period, then Employee shall reimburse the full amount of tuition that City has paid pursuant to this Agreement and any amendments thereto.
- B. If Employee voluntarily terminates employment with City after Program completion and after completing six months of active employment but prior to the end of the Retention Period, Employee will refund a prorated share of the tuition expenses paid under this Agreement. The prorated amount will be determined by multiplying the total amount of tuition the City has paid pursuant to this Agreement and any amendments thereto by the percentage of time left in the Retention Period.
- C. If employee does not satisfactorily complete any portion of the Program, withdraws from the Program, or is dismissed from the Program, Employee shall repay to City all tuition paid until the date of dismissal from the Program.
- D. Employee acknowledges and agrees that upon Employee’s separation from the City, City may at its option set off any amounts owing to City for tuition due pursuant to this Section 2 by withholding wages, vacation pay, or severance pay.
- E. City may at its sole option allow Employee to reimburse any tuition expenses owed pursuant to this Section 2 by entering into a payment plan agreement for a term not exceeding two (2) years following termination of employment.
- F. If City brings any action to enforce any provision of this agreement, Employee agrees to pay all costs associated with the action as well as any costs of litigation, including all reasonable attorney fees.

3. **ADHERENCE TO CITY POLICIES:** Employee agrees and acknowledges that he is representing the City as a student in the Program, and he shall abide by the City’s Personnel Policies and Procedures during the Program. Employee shall coordinate the hours of Program course work with the IT Director. Employee may perform coursework during work hours if it does not interfere with his duties, but Employee shall not be entitled to overtime pay for hours of study outside of his normal work schedule.

4. **ENTIRE AGREEMENT; AMENDMENT; NON-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 City and Contractor. This Agreement supersedes all other agreements, whether oral or written, which may have previously existed between the parties.

5. **EFFECTIVE DATE; TERM**

This Agreement shall become effective on the date of its execution and shall expire upon the completion of Employee’s Retention Period.

6. **TERMINATION**

a. Either party may terminate this Agreement with or without cause upon thirty (30) written days’ notice to the other party, but the provisions of this Agreement requiring Employee to reimburse City shall survive its expiration.

b. Termination of the Agreement by either party shall not entitle the other party to any termination or severance compensation or to any payment for any good will established by either party during the term of this Agreement or render either party liable for damages as a result of the loss of prospective profits or of expenditures, investments, or obligations incurred or made by either party.

7. **OPPORTUNITY TO CONSULT COUNSEL**

Employee hereby acknowledges that he has read and fully understands this Agreement, and he has been advised to, and has had the opportunity to consult with, his personal counsel and financial advisors with respect to his responsibilities pursuant to this Agreement.

8. **INDEMNIFICATION**

Employee agrees to hold harmless and indemnify City from and against all injuries, deaths, claims, suits, losses, damages, liabilities, judgments, costs, and expenses which may form the basis of any suit, judgment, execution, claim, or demand, including costs and attorney’s fees, which arise out of or are in any way connected with the Employee’s performance of his obligations under this agreement.

9. **ASSIGNMENT OF CONTRACT**

Employee may not assign, transfer, convey, sell, or otherwise dispose of this Agreement or any part of it.

10. **GOVERNING LAW**

The laws of the State of Alabama shall govern this Agreement.

11. **NOTICES**

All notices to City shall be addressed to:

All notices addressed to Employee shall be addressed to:

City of Madison
Mayor's Office
100 Hughes Road
Madison, Alabama 35758

Garett Gillott
200 Kathy Lane, SW
Decatur, Alabama 35603

With a copy to:
City Attorney
Legal Department
100 Hughes Road
Madison, AL 35758

12. **SEVERABILITY AND WAIVER**

The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision. If a court of competent jurisdiction finds that any provision of this Agreement is invalid or unenforceable as written, but that limitation of such provision would render it valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited. The failure or either party hereto to enforce any provision of this Agreement, or to exercise any right herein, shall not be construed as a waiver or limitation of that party's right to subsequently enforce and strictly compel compliance with that and every other provision of this Agreement.

13. **EXCUSED PERFORMANCE**

In case performance of any terms or provisions hereof shall be delayed or prevented because of compliance with the law, decree, or order of any governmental agency or of any judicial, legislative, or executive authority, whether the same shall be local, state or federal in origin, or because of riots, war, public disturbances, strikes, lockouts, differences with workmen, fires, floods, acts of God or any other reason whatsoever, said reason 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 hindered may, at its option, suspend without liability, the performance of its obligations hereunder.

Should such suspension or delay lawfully last more than five (5) calendar days, the parties agree that this Agreement shall be terminated in its entirety and that the only liability accruing to either party shall be payment to the other of any monies due and owing at the time the suspension or delay began.

IN WITNESS WHEREOF, the undersigned hereby affirm that they have the authority to execute this Agreement on behalf of the respective parties 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 authority, as Notary Public in and for said County in said State, hereby certify that Paul Finley and Lisa D. Thomas, whose names as Mayor and City Clerk-Treasurer of the City of Madison, Alabama, respectively, 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, on the date the same bears date.

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

Notary Public

Garrett Gillott
Employee

Garrett Gillott

Date

STATE OF ALABAMA §

§

COUNTY OF MADISON §

I, the undersigned authority, as Notary Public in and for said County in said State, hereby certify that Garrett Gillott, whose name is signed to the foregoing instrument and who is or has been made known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the date the same bears date.

Given under my hand and the official seal this_____ day of April 2023.

Notary Public

RESOLUTION NO. 2023-151-R

**A RESOLUTION AUTHORIZING LICENSE AGREEMENT WITH
SOUTHERN BROADCASTING, LLC FOR USE OF RAINBOW
MOUNTAIN TOWER**

WHEREAS, for the purpose of operating a low power FM public broadcast station, Southern Broadcasting, LLC (“Licensee”) seeks to acquire the privilege and permission to enter upon and use a portion of the City’s property located in Madison, Madison County, Alabama, the subject property being more particularly described as the City’s one hundred twenty foot (120’) three-legged, self-supporting tower (“Tower”) located on the City’s property on Rainbow Mountain; and

WHEREAS, City has determined that there is available space on its Tower and within its equipment shelter located adjacent thereto that is not currently needed for public or municipal purposes and that will be sufficient for the Licensee’s purposes and according to the federal approval granted to Licensee in Exhibit A and the transmitter specifications set forth in Exhibit B;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that the City Attorney is directed to prepare, and the Mayor is authorized and directed to execute on behalf of the City, a License Agreement with Southern Broadcasting, LLC and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same.

READ, PASSED, AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 24th day of April 2023.

Ranae Bartlett, City Council President
City of Madison, Alabama

ATTEST:

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

APPROVED this ____ day of April 2023.

Paul Finley, Mayor
City of Madison, Alabama

LICENSE AGREEMENT

THIS AGREEMENT is entered into by and between the **City of Madison, Alabama**, a municipal corporation, with its principal place of business being located at 100 Hughes Road, Madison, Alabama (hereinafter “Licensor”) and **Southern Broadcasting, LLC** (hereinafter “Licensee”).

WHEREAS, Licensee has previously obtained FCC clearance for the provision of a low-wattage radio station and Licensee desires to use space on Licensor’s radio tower on Rainbow Mountain; and

WHEREAS, for the limited and restricted purposes hereinafter specified, Licensor, by and through its governing body, has determined that entry into this License Agreement under the specific terms set forth hereinbelow is mutually beneficial;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties, intending to be legally bound, agree as follows:

A. Terms and Provisions of the License Agreement.

The terms and provisions of this License Agreement shall be as follows:

- 1. Use. Licensor hereby grants to Licensee, its agents, and contractors a non-exclusive, revocable license to enter upon and use certain areas of Licensor’s property, to-wit: the City of Madison’s three-legged, free-standing telecommunications tower located atop Rainbow Mountain and the attendant Equipment Shelter, the specific licensed portions of each being subject to the direction and final approval of the I.T. Director, as well as the right of ingress and egress to and from each (hereinafter referred to collectively as the “Premises”). All access granted herein is being allowed for the limited, specific purpose of installing, maintaining, and operating the low power FM broadcast station permitted by the FCC in Exhibit A through the use of equipment contemplated in Exhibit B (collectively, these grants and conditions are hereinafter termed “License”).

Exhibits A and B referenced above are attached hereto and made a part hereof as if set out in full herein.

- 2. Term.
 - a. 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 final signature shall be the date the License Agreement comes into effect.
 - b. This License shall continue for three (3) years following final execution of this Agreement.
 - c. This License is revocable at will by the Licensor at any time.

3. Consideration. As total consideration for this License, Licensor accepts as adequate consideration for the License the sum of three hundred dollars (\$300.00) per month.
4. Conditions applicable to License. This License is subject to all existing covenants, conditions, reservations, contracts, leases, licenses, easements, encumbrances, restrictions and rights-of-way with respect to the Premises, whether or not of record, and Licensee further acknowledges and accepts the following specific conditions:
 - a. Any use that may be made of the Premises, or any part of it, and the construction of any improvements or facilities thereon, or means of access thereto, must be coordinated with Licensor through the City of Madison I.T. Director or his designee (hereinafter "Director") to ensure that such usage or improvements do not interfere with existing or planned uses of the Premises.
 - b. Licensee's use pursuant to the License granted herein shall be confined to that smallest area of the Premises necessary for installation, maintenance, and operation.
 - c. Installation shall be done in the manner reviewed and approved by the FCC and shall not damage Licensor's property, including, without limitation, existing telecommunications systems. The Director shall have the right to inspect the installation at any time and to order remediation by Licensee where he determines that Licensor's property has been damaged by the installation, maintenance, or operation of Licensee's radio station.
 - d. Changes to the equipment proposed by the Licensee, including alternative or additional points of installation, shall also be subject to the approval process contained in Section 4 (a).
 - e. Any improvements on the Premises, including any means of access, shall be provided or constructed by Licensee without any cost whatsoever to the Licensor. Any improvements made to the Premises shall be done in a manner that will ensure Licensee's ability to fully comply with all provisions of this Agreement and shall be done only after review by and approval of the Director.
 - f. The Director may, at any time, require the Licensee, at its sole cost and expense, to eliminate or modify a component of the installed equipment if it is determined, in the opinion of the I.T. Director, to pose a communications hazard or threat to public safety by its continued operation.
 - g. Licensee shall be required, at its sole cost and expense, to maintain its equipment in a safe and functional manner. Damaged equipment shall be replaced by the Licensee as soon as possible, subject to any valid contractual restrictions placed on Licensee by an agreement between Licensee and the equipment manufacturer.

- h. Licensor and its employees, representatives, agents, and officials shall not have any liability or responsibility whatsoever for any claims of personal injury or property damage arising out of any usage of the Premises pursuant to the License granted herein.
 - i. Upon termination of the License as provided for herein, Licensee shall discontinue all use of the Premises, remove all equipment, and return the Premises to the exclusive control of the Licensor.
- 5. No Transfer or Assignment. This License is personal to Licensee. Any attempt to transfer, assign, or sublease this License shall terminate it.
- 6. Permits and Regulations. Licensee shall be responsible for securing any required approvals, permits, and authorizations from any federal, state or local agencies and shall comply with all applicable laws and regulations. Failure to abide by the requirements of this section or the revocation of any agency grant made hereunder shall result in immediate termination of this License.
- 7. No Interference. Licensee shall not interfere with the normal operation and activities of Licensor and Licensee shall conduct its activities on the Premises to minimize damage to the Premises and inconvenience to Licensor, its officers, employees and invitees.
- 8. Repair and Restoration. Licensee shall not damage or deface Licensor's property surrounding the Premises nor interfere with the general operation and use of such property. If Licensee, its agents, or contractors cause any damage to the Premises, or to Licensor's communications equipment, antennae, roads, infrastructure, or other property and improvements (collectively "Property") in connection with the exercise of this License, the same shall be considered Licensee's breach of an obligation to Licensor and shall be cured in accordance with the provisions of Section 9, the Premises and Property to be restored to their original condition to the satisfaction of the Director. In the event that repair and restoration is performed following the termination of this License, the Licensee's Indemnity and Insurance obligations in Sections 12 and 13 shall continue until repair and restoration efforts are completed as provided herein.
- 9. Breach and Cure. In the event Licensee breaches any of its obligations under this License, Licensor shall send Licensee written notice specifying the nature of such breach. Licensee shall have ten (10) days from receipt of such notice within which to cure the stated breach. If more time is reasonably required for Licensee's performance and cure, then Licensee shall notify Director in writing of its proposed schedule for performance and commence performance within such ten (10) day period; thereafter, Licensee shall diligently proceed to completion. If Licensee fails to cure or to commence to cure within such ten (10) day period, then Licensor shall have the right to terminate this License immediately by serving Licensee with written notice of termination. Licensor shall have all rights and remedies available under Alabama law including, but not limited to, actions for damages and specific performance, for any breach of Licensee's obligations hereunder.

10. Alteration in Writing. This License supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to the subject matter of this License. No alteration or variation of this License shall be valid unless made in writing and signed by Licensor and Licensee.

11. Notice. Any notice required hereunder shall be in writing and shall be addressed as follows:

Licensor:

I.T. Director
City of Madison
100 Hughes Road
Madison, Alabama 35758

Licensee:

12. Indemnification. Licensee shall indemnify, defend and hold harmless Licensor, its officers, agents, and employees from and against any claims, damages, costs, expenses, or liabilities arising out of or in any way connected with this License including, without limitation, claims for loss or damage to any property, or for death or injury to any person or persons to the extent that such claims arise from the negligent or intentional acts or omissions of Licensee, its officers, agents, partners, invitees, or employees. Nothing in this paragraph shall be construed as a waiver of any immunity of statutory protection of the Licensor and no third party may expand any recovery against the Licensor due to the Licensee’s duty of indemnification. This paragraph shall survive the expiration, revocation, or termination of this License.

13. Insurance.

a. Licensee shall obtain a policy of general liability insurance with a minimum limit of one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) in the aggregate for bodily injury, property damage, and personal injury. The cost of such coverage shall be borne solely by Licensee and shall be procured and maintained at no expense to the Licensor. Such coverage shall be maintained by Licensee for the life of this Agreement and any lapse in coverage shall result in immediate termination of this License, any other termination provisions contained herein notwithstanding. Said general liability insurance policy must (i) be written on a Commercial Form; (ii) include Premises/Operations, Independent Contractors, and Products/Completed Operations coverage; (iii) include broad-form contractual liability coverage, and (iv) include Licensor as additional insured, but only with respect to liability

arising from the performance of any activities associated with the uses permitted under the terms of this License. Such policy of insurance shall be issued by a company authorized to engage in the insurance business in the state of Alabama with an A.M. Best's rating of no less than "A" or shall be approved by the City Attorney of the City of Madison prior to the Licensee entering upon the Premises.

- b. Licensee shall also maintain a policy of fire and property insurance in an amount sufficient to reimburse Licensee for all of its equipment, trade fixtures, inventory, fixtures, and other personal property located on or in the Premises, including any improvements hereinafter constructed or installed. Such policy shall name Licensor as additional insured.
 - c. Licensee shall maintain such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of Licensor and Licensee against other insurable risks relating to performance hereunder.
 - d. The coverage required herein shall not limit the liability of Licensee.
 - e. Licensee, upon the execution of this License, shall furnish Licensor with certificates of insurance evidencing compliance with all requirements. Certificates shall provide for thirty (30) days' advance written notice to Licensor of any material modification, change or cancellation of the above insurance coverage.
 - f. All coverage amounts set forth in this section shall be increased as necessary to maintain coverage at a level comparable to the coverage required on the date of execution in order to take account of the effects of inflation or any increase in risk.
14. Waiver of Subrogation. Licensee hereby waives any right of recovery against Licensor due to loss of or damage to the property of Licensee when such loss of or damage to property arises out of an act of God or any of the property perils included in the classification of fire or extended perils ("all risk" as such term is used in the insurance industry) whether or not such perils have been insured, self-insured, or non-insured.
15. Lien-Free Condition. Licensee shall not cause or permit any liens to be placed against the Premises or against Licensor's other Property as a result of Licensee's exercise of rights under this License. In the event of the filing of any such liens, Licensee shall promptly cause such liens to be removed. In no event shall such lien removal require more than thirty (30) days.

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

LICENSOR

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

Attest:

By: _____
Paul Finley, Mayor

Lisa Thomas, City Clerk-Treasurer

Date: _____

STATE OF ALABAMA §

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COUNTY OF MADISON §

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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, and Lisa Thomas, whose name as City Clerk of the City of Madison, 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, in their respective capacities as Mayor of the City of Madison and City Clerk 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 April, 2023.

Notary Public

LICENSEE

Southern Broadcasting, LLC

By: _____

Its: _____

Date: _____

STATE OF ALABAMA

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COUNTY OF MADISON

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I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of FRC of Alabama, LLC, is signed to the foregoing instrument and who is or has been made 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 _____, 2020.

Notary Public

RESOLUTION NO. 2023-152-R

**A RESOLUTION AUTHORIZING LICENSE AGREEMENT WITH
MADISON COUNTY VETERANS' ASSOCIATION**

WHEREAS, for the purpose of operating a low power FM public broadcast station, Madison County Veterans Association ("Licensee") seeks to acquire the privilege and permission to enter upon and use a portion of the City's property located in Madison, Madison County, Alabama, the subject property being more particularly described as the City's one hundred twenty foot (120') three-legged, self-supporting tower ("Tower") located on the City's property on Rainbow Mountain; and

WHEREAS, City has determined that there is available space on its Tower and within its equipment shelter located adjacent thereto that is not currently needed for public or municipal purposes and that will be sufficient for the Licensee's purposes and according to the federal approval granted to Licensee in Exhibit A and the transmitter specifications set forth in Exhibit B;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that the City Attorney is directed to prepare, and the Mayor is authorized and directed to execute on behalf of the City, a License Agreement with Madison County Veterans Association and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same.

READ, PASSED, AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 24th day of April 2023.

Ranae Bartlett, City Council President
City of Madison, Alabama

ATTEST:

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

APPROVED this ____ day of April 2023.

Paul Finley, Mayor
City of Madison, Alabama

LICENSE AGREEMENT

THIS AGREEMENT is entered into by and between the **City of Madison, Alabama**, a municipal corporation, with its principal place of business being located at 100 Hughes Road, Madison, Alabama (hereinafter “Licensor”) and **Madison County Veterans Association**, an Alabama non-profit corporation, located at 10007 Willow Cove Road, Huntsville, Alabama 35803 (hereinafter “Licensee”).

WHEREAS, Licensee is a non-profit organization which has previously obtained FCC clearance for the provision of a low-wattage radio station serving the Madison community as a public radio station emphasizing veterans’ affairs and defense community announcements while also providing a local radio source for community service announcements; and

WHEREAS, in order to advance its mission, Licensee desires to use space on Licensor’s radio tower on Rainbow Mountain and in the accompanying Equipment Shelter in exchange for air time for city and community announcements; and

WHEREAS, for the limited and restricted purposes hereinafter specified, Licensor, by and through its governing body, has determined that entry into this License Agreement under the specific terms set forth hereinbelow is in the public interest;

NOW, THEREFORE, in consideration of the mutual benefits and premises contained herein, intending to be legally bound, the parties agree as follows:

A. Terms and Provisions of the License Agreement.

The terms and provisions of this License Agreement shall be as follows:

1. Use. Licensor hereby grants to Licensee, its agents, and contractors a non-exclusive, revocable license to enter upon and use certain areas of Licensor’s property, to-wit: the City of Madison’s three-legged, free-standing telecommunications tower located atop Rainbow Mountain and the attendant Equipment Shelter, the specific licensed portions of each being subject to the direction and final approval of the I.T. Director, as well as the right of ingress and egress to and from each (hereinafter referred to collectively as the “Premises”). All access granted herein is hereby made subject to the conditions set forth below and in Exhibits A and B, such access being allowed for the limited, specific purpose of installing, maintaining, and operating the low power FM broadcast station permitted by the FCC in Exhibit C through the use of equipment contemplated in Exhibit D (collectively, these grants and conditions are hereinafter termed “License”).

Exhibits A-D referenced above are attached hereto and made a part hereof as if set out in full herein.

2. Term.
 - a. 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 final signature shall be the date the License Agreement comes into effect.

- b. This License shall continue for three (3) years following final execution of this Agreement.
 - c. This License is revocable at will by the Licensor at any time.
3. Consideration. As total consideration for this License, Licensor acknowledges Licensee's status as a domestic non-profit corporation organized for the purpose of advancing the cause of veterans' affairs in order to enrich the quality of life of the greater Madison community and accepts as adequate consideration for the License their offer of no less than one thousand dollars (\$1,000.00) per month of air time for Madison community service announcements (see Exhibit B), the air time cost to be calculated according to the industry rate for the same or similar advertisement on a station of the same or similar size and broadcast power.
4. Conditions applicable to License. This License is subject to all existing covenants, conditions, reservations, contracts, leases, licenses, easements, encumbrances, restrictions and rights-of-way with respect to the Premises, whether or not of record, and Licensee further acknowledges and accepts the following specific conditions:
- a. Any use that may be made of the Premises, or any part of it, and the construction of any improvements or facilities thereon, or means of access thereto, must be coordinated with Licensor through the City of Madison I.T. Director or his designee (hereinafter "Director") to ensure that such usage or improvements do not interfere with existing or planned uses of the Premises.
 - b. Licensee's use pursuant to the License granted herein shall be confined to that smallest area of the Premises necessary for installation, maintenance, and operation.
 - c. Installation shall be done in the manner reviewed and approved by the FCC and shall not damage Licensor's property, including, without limitation, existing telecommunications systems. The Director shall have the right to inspect the installation at any time and to order remediation by Licensee where he determines that Licensor's property has been damaged by the installation, maintenance, or operation of Licensee's radio station.
 - d. Changes to the equipment proposed by the Licensee, including alternative or additional points of installation, shall also be subject to the approval process contained in Section 4 (d).
 - e. Any improvements on the Premises, including any means of access, shall be provided or constructed by Licensee without any cost whatsoever to the Licensor. Any improvements made to the Premises shall be done in a manner that will ensure Licensee's ability to fully comply with all provisions of this Agreement and shall be done only after review by and approval of the Director.

- f. The Director may, at any time, require the Licensee, at its sole cost and expense, to eliminate or modify a component of the installed equipment if it is determined, in the opinion of the I.T. Director, to pose a communications hazard or threat to public safety by its continued operation.
 - g. Licensee shall be required, at its sole cost and expense, to maintain its equipment in a safe and functional manner. Damaged equipment shall be replaced by the Licensee as soon as possible, subject to any valid contractual restrictions placed on Licensee by an agreement between Licensee and the equipment manufacturer.
 - h. Licensor and its employees, representatives, agents, and officials shall not have any liability or responsibility whatsoever for any claims of personal injury or property damage arising out of any usage of the Premises pursuant to the License granted herein.
 - i. Upon termination of the License as provided for herein, Licensee shall discontinue all use of the Premises, remove all equipment, and return the Premises to the exclusive control of the Licensor.
5. No Transfer or Assignment. This License is personal to Licensee. Any attempt to transfer, assign, or sublease this License shall terminate it.
 6. Permits and Regulations. Licensee shall be responsible for securing any required approvals, permits, and authorizations from any federal, state or local agencies and shall comply with all applicable laws and regulations. Failure to abide by the requirements of this section or the revocation of any agency grant made hereunder shall result in immediate termination of this License.
 7. No Interference. Licensee shall not interfere with the normal operation and activities of Licensor and Licensee shall conduct its activities on the Premises to minimize damage to the Premises and inconvenience to Licensor, its officers, employees and invitees.
 8. Repair and Restoration. Licensee shall not damage or deface Licensor's property surrounding the Premises nor interfere with the general operation and use of such property. If Licensee, its agents, or contractors cause any damage to the Premises, or to Licensor's communications equipment, antennae, roads, infrastructure, or other property and improvements (collectively "Property") in connection with the exercise of this License, the same shall be considered Licensee's breach of an obligation to Licensor and shall be cured in accordance with the provisions of Section 9, the Premises and Property to be restored to their original condition to the satisfaction of the Director. In the event that repair and restoration is performed following the termination of this License, the Licensee's Indemnity and Insurance obligations in Sections 12 and 13 shall continue until repair and restoration efforts are completed as provided herein.

- 9. Breach and Cure. In the event Licensee breaches any of its obligations under this License, Licensor shall send Licensee written notice specifying the nature of such breach. Licensee shall have ten (10) days from receipt of such notice within which to cure the stated breach. If more time is reasonably required for Licensee’s performance and cure, then Licensee shall notify Director in writing of its proposed schedule for performance and commence performance within such ten (10) day period; thereafter, Licensee shall diligently proceed to completion. If Licensee fails to cure or to commence to cure within such ten (10) day period, then Licensor shall have the right to terminate this License immediately by serving Licensee with written notice of termination. Licensor shall have all rights and remedies available under Alabama law including, but not limited to, actions for damages and specific performance, for any breach of Licensee’s obligations hereunder.
- 10. Alteration in Writing. This License supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to the subject matter of this License. No alteration or variation of this License shall be valid unless made in writing and signed by Licensor and Licensee.
- 11. Notice. Any notice required hereunder shall be in writing and shall be addressed as follows:

Licensor:

I.T. Director
 City of Madison
 100 Hughes Road
 Madison, Alabama 35758

Licensee:

- 12. Indemnification. Licensee shall indemnify, defend and hold harmless Licensor, its officers, agents, and employees from and against any claims, damages, costs, expenses, or liabilities arising out of or in any way connected with this License including, without limitation, claims for loss or damage to any property, or for death or injury to any person or persons to the extent that such claims arise from the negligent or intentional acts or omissions of Licensee, its officers, agents, partners, invitees, or employees. Nothing in this paragraph shall be construed as a waiver of any immunity of statutory protection of the Licensor and no third party may expand any recovery against the Licensor due to the Licensee’s duty of indemnification. This paragraph shall survive the expiration, revocation, or termination of this License.
- 13. Insurance.

- a. Licensee shall obtain a policy of general liability insurance with a minimum limit of one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) in the aggregate for bodily injury, property damage, and personal injury. The cost of such coverage shall be borne solely by Licensee and shall be procured and maintained at no expense to the Licensor. Such coverage shall be maintained by Licensee for the life of this Agreement and any lapse in coverage shall result in immediate termination of this License, any other termination provisions contained herein notwithstanding. Said general liability insurance policy must (i) be written on a Commercial Form; (ii) include Premises/Operations, Independent Contractors, and Products/Completed Operations coverage; (iii) include broad-form contractual liability coverage, and (iv) include Licensor as additional insured, but only with respect to liability arising from the performance of any activities associated with the uses permitted under the terms of this License. Such policy of insurance shall be issued by a company authorized to engage in the insurance business in the state of Alabama with an A.M. Best's rating of no less than "A" or shall be approved by the City Attorney of the City of Madison prior to the Licensee entering upon the Premises.
 - b. Licensee shall also maintain a policy of fire and property insurance in an amount sufficient to reimburse Licensee for all of its equipment, trade fixtures, inventory, fixtures, and other personal property located on or in the Premises, including any improvements hereinafter constructed or installed. Such policy shall name Licensor as additional insured.
 - c. Licensee shall maintain such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of Licensor and Licensee against other insurable risks relating to performance hereunder.
 - d. The coverage required herein shall not limit the liability of Licensee.
 - e. Licensee, upon the execution of this License, shall furnish Licensor with certificates of insurance evidencing compliance with all requirements. Certificates shall provide for thirty (30) days' advance written notice to Licensor of any material modification, change or cancellation of the above insurance coverage.
 - f. All coverage amounts set forth in this section shall be increased as necessary to maintain coverage at a level comparable to the coverage required on the date of execution in order to take account of the effects of inflation or any increase in risk.
14. Waiver of Subrogation. Licensee hereby waives any right of recovery against Licensor due to loss of or damage to the property of Licensee when such loss of or damage to property arises out of an act of God or any of the property perils included in the classification of fire or extended perils ("all risk" as such term is used in the insurance industry) whether or not such perils have been insured, self-insured, or non-insured.

- 15. Lien-Free Condition. Licensee shall not cause or permit any liens to be placed against the Premises or against Licensor’s other Property as a result of Licensee’s exercise of rights under this License. In the event of the filing of any such liens, Licensee shall promptly cause such liens to be removed. In no event shall such lien removal require more than thirty (30) days.

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

LICENSOR

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

Attest:

By: _____
Paul Finley, Mayor

Lisa Thomas, City Clerk-Treasurer

Date: _____

STATE OF ALABAMA §
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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, and Lisa Thomas, whose name as City Clerk of the City of Madison, 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, in their respective capacities as Mayor of the City of Madison and City Clerk 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 24th day of April, 2023.

Notary Public

LICENSEE

**Madison County Veterans Association,
an Alabama non-profit organization**

By: _____

Its: _____

Date: _____

STATE OF ALABAMA

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COUNTY OF MADISON

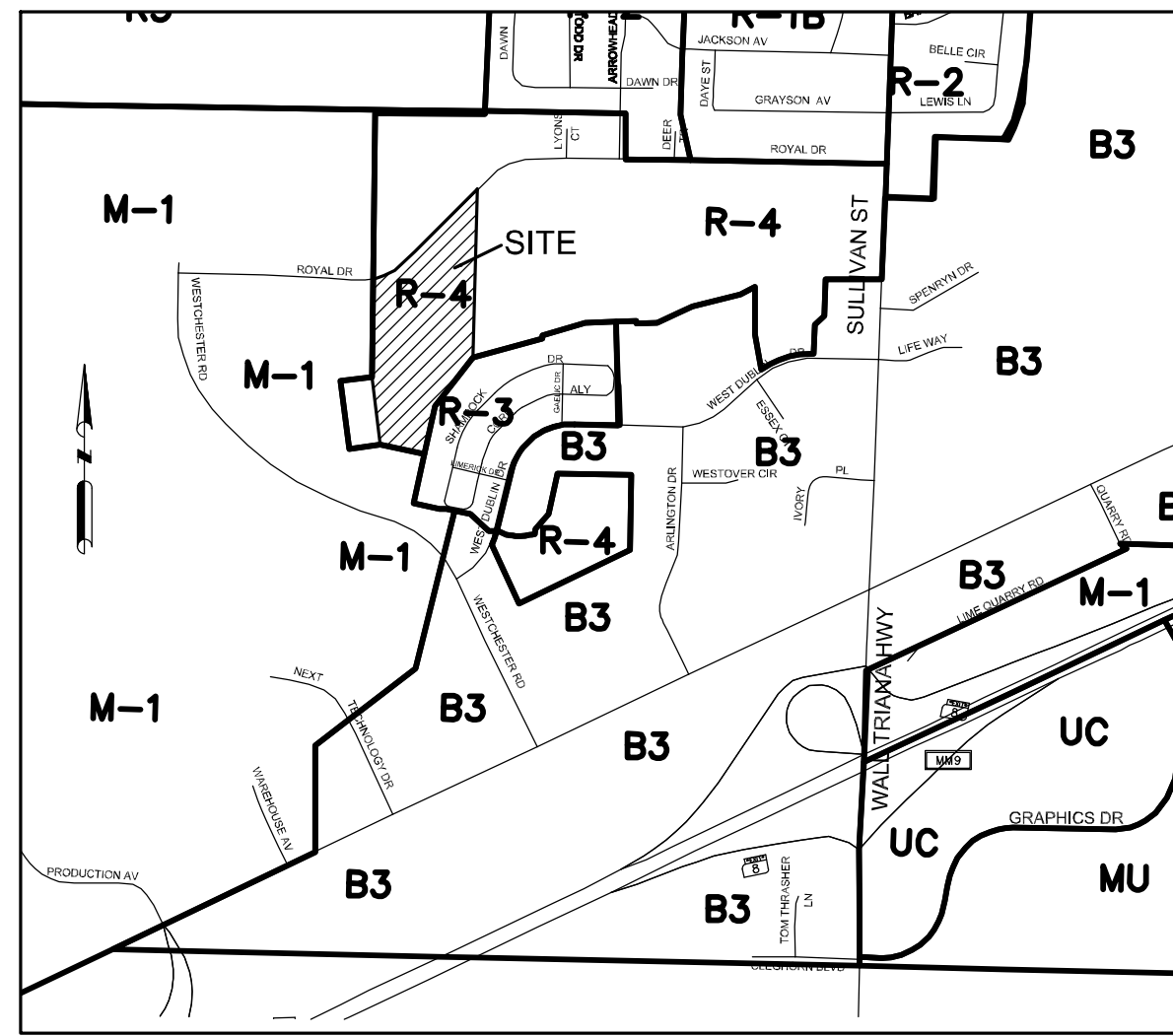
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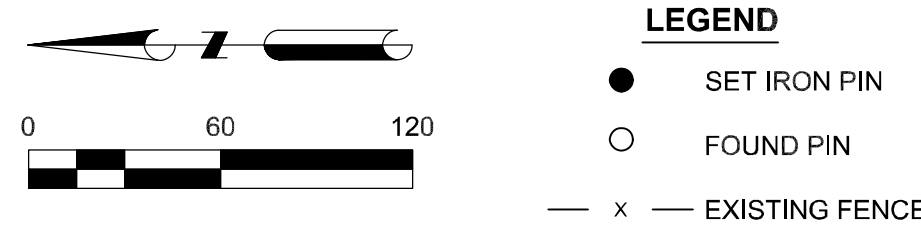
I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of Madison County Veterans Association, is signed to the foregoing instrument and who is or has been made known to me, acknowledged before me on this day that, being informed 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



SITE VICINITY MAP
1"=1200'



NOTES:

- THERE IS A 15.00' P.U.D.E. ALONG THE RIGHT-OF-WAY ON EACH LOT.
- DEED REFERENCE: P.B. 910 PG. 233 LOWE-WIGINTON INVESTMENTS LTD. 307 FRANKLIN ST HUNTSVILLE, AL 35801
- SETBACKS ARE GOVERNED BY THE LATEST EDITION OF THE ZONING ORDINANCE.
- ZONING DISTRICT: R-4
- THERE ARE 1,966 L.F. OF PROPOSED STREETS AND 2.20 ACRES OF PROPOSED RIGHT-OF-WAY FOR THIS PHASE.
- THIS DEVELOPMENT IS 14.33 ACRES, 96 LOTS, AND 4 COMMON AREAS IN TRACT 1, WITH A TOTAL PROPERTY AREA OF 14.33 ACRES.
- THE SMALLEST LOT CONTAINS 3000.20 SQUARE FEET (0.07 ACRES).
- THIS DEVELOPMENT CONTAINS 3.69 ACRES OF OPEN AREA.
- ALL DRAINAGE DITCHES ARE TO BE CENTERED ON PROPERTY LINES UNLESS OTHERWISE SHOWN
- ALL UTILITIES SHALL BE UNDERGROUND
- IF ADVERSE CONDITIONS ARE UNCOVERED DURING CONSTRUCTION, THE CITY ENGINEER MAY REQUIRE MODIFICATION OF THESE PLANS TO THE EXTENT NECESSARY TO ASSURE COMPLIANCE WITH THE CITY'S CONSTRUCTION SPECIFICATIONS MANUAL
- ALL LOTS SHALL BE GRADED SO THAT RUN-OFF WILL BE DIRECTED TO THE STREET OR TO DRAINAGEWAYS IN A DEDICATED EASEMENT
- A FOUR FOOT CONCRETE SIDEWALK IS REQUIRED ALONG BOTH SIDES OF ALL STREETS WITHIN THE SUBDIVISION. ALL SUCH SIDEWALKS FRONTING COMMON AREAS MUST BE CONSTRUCTED WITH THE SUBDIVISION. SIDEWALKS ALONG ROYAL DRIVE MUST BE CONSTRUCTED WITH THE SUBDIVISION. INDIVIDUAL HOMEBUILDERS ARE REQUIRED TO CONSTRUCT REQUIRED SIDEWALKS ADJACENT TO THEIR SITE AS A CONDITION TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY.
- SIDEWALK RAMPS SHALL COMPLY WITH THE AMERICANS WITH DISABILITIES ACT (ADA) SPECIFICATIONS WITH DETECTABLE WARNING PAVEMENT INLAYS
- DRIVEWAYS SHALL BE PLACED SUCH THAT THE DRIVEWAY IS NOT WITHIN THE RADIUS OF ANY INTERSECTION, DOES NOT CONFLICT WITH INTERSECTION SIGHT DISTANCE, DOES NOT CONFLICT WITH ANY UTILITY, AND DOES NOT CONFLICT WITH ANY ADA ACCESSIBILITY STRUCTURE.
- COMMON AREAS SHALL BE MAINTAINED BY THE OWNER OF RECORD AS LISTED IN THE MADISON COUNTY TAX ASSESSOR'S OFFICE.
- EACH RESIDENTIAL LOT SHALL HAVE NOT LESS THAN 300 SQUARE FEET OF YARD SPACE ADJACENT TO THE DWELLING AND SECLUDED AT SIX FEET ABOVE GROUND LEVEL FROM VIEW OF NEIGHBORING PROPERTIES OR ACCESS ROAD. SAID YARD SPACE SHALL BE EQUAL IN WIDTH TO THE DWELLING AND SHALL HAVE A MINIMUM DIMENSION OF NOT LESS THAN 12 FEET.
- NO LOT SHALL HAVE ACCESS TO ROYAL DRIVE.
- NO PRIVATE IMPROVEMENTS OR FENCES WILL BE ALLOWED WITHIN OPEN U&D EASEMENTS.
- 25' BUFFER STRIP ADJACENT TO ROYAL DRIVE IS RESERVED FOR SCREENING. THE PLACEMENT OF STRUCTURES HEREON IS PROHIBITED.
- FLOODPLAIN EASEMENT TO BE VACATED ONCE FINAL DETERMINATION ISSUED FOR FEMA CASE NUMBER 23-04-0738A.

FLOODPLAIN EASEMENT:

STATE OF ALABAMA
COUNTY OF MADISON

A FLOODPLAIN EASEMENT MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 2A BLOCK 2 OF A RESUBDIVISION OF LOT 2 BLOCK 2 OF ARLINGTON PARK AS RECORDED IN PLAT BOOK 23 PAGE 60 IN THE OFFICE OF THE JUDGE OF PROBATE FOR MADISON COUNTY, ALABAMA; THENCE RUN SOUTH 01°14'38" WEST A DISTANCE OF 277.44 FEET TO A POINT; THENCE SOUTH 88°45'22" EAST A DISTANCE OF 113.97 FEET TO A POINT, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED FLOODPLAIN EASEMENT;

THENCE FROM THE POINT OF BEGINNING RUN SOUTH 01°14'38" WEST A DISTANCE OF 134.92 FEET TO A POINT; THENCE SOUTH 88°45'22" EAST A DISTANCE OF 157.15 FEET TO A POINT; THENCE SOUTH 01°14'38" WEST A DISTANCE OF 155.25 FEET TO A POINT; THENCE SOUTH 88°45'22" EAST A DISTANCE OF 107.15 FEET TO A POINT; THENCE SOUTH 01°14'38" WEST A DISTANCE OF 33.08 FEET TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 70.05', WITH A RADIUS OF 75.00', WITH A CHORD BEARING OF SOUTH 27°59'58" WEST, WITH A CHORD LENGTH OF 67.53', TO A POINT; THENCE SOUTH 01°14'38" WEST A DISTANCE OF 152.88 FEET TO A POINT; THENCE SOUTH 25°02'40" WEST A DISTANCE OF 29.84 FEET TO A POINT; THENCE NORTH 88°45'22" WEST A DISTANCE OF 20.71 FEET TO A POINT; THENCE SOUTH 01°14'38" WEST A DISTANCE OF 9.52 FEET TO A POINT; THENCE NORTH 88°45'22" WEST A DISTANCE OF 148.25 FEET TO A POINT; THENCE NORTH 01°14'38" EAST A DISTANCE OF 147.89 FEET TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 72.66', WITH A RADIUS OF 125.00', WITH A CHORD BEARING OF NORTH 36°52'40" WEST, WITH A CHORD LENGTH OF 71.64', TO A POINT; THENCE NORTH 88°45'22" WEST A DISTANCE OF 95.42 FEET TO A POINT; THENCE NORTH 01°14'38" EAST A DISTANCE OF 175.96 FEET TO A POINT; THENCE NORTH 10°54'48" WEST A DISTANCE OF 14.25 FEET TO A POINT; THENCE NORTH 01°14'38" EAST A DISTANCE OF 105.79 FEET TO A POINT; THENCE NORTH 01°44'43" WEST A DISTANCE OF 73.43 FEET TO A POINT; THENCE SOUTH 88°45'22" EAST A DISTANCE OF 93.58 FEET AND BACK TO THE POINT OF BEGINNING, SAID FLOODPLAIN EASEMENT CONTAINS 2.66 ACRES, MORE OR LESS.

FLOOD PLAIN:

I HEREBY CERTIFY THAT THE PROPERTY SHOWN HEREON LIES WITHIN FLOOD ZONES AE, X, AND THE REGULATORY FLOODWAY AS SHOWN ON THE FEDERAL INSURANCE MAP (F.I.R.M.), COMMUNITY PANEL NUMBER 01089C0292E, DATED 10/02/2014.

I HEREBY CERTIFY THAT PORTIONS OF THE PROPERTY AS SHOWN WERE REMOVED FROM FLOOD ZONE AE PER LOMR CASE NO. 98-04-1478A.

SURVEYOR OF RECORD DATE



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	25.00	36.74	33.52	S 02°48'39" W	84°11'39"
C2	125.00	8.53	8.52	N 37°19'57" W	3°54'28"
C3	125.00	40.95	40.77	N 25°59'34" W	18°46'18"
C4	125.00	26.62	26.55	N 10°10'26" W	13°09'59"
C5	125.00	10.33	10.33	N 01°07'24" W	4°44'04"
C6	125.00	149.58	138.65	S 34°55'41" W	67°22'07"
C7	125.00	37.51	37.27	S 77°12'30" W	17°11'29"
C8	125.00	11.87	11.86	N 88°31'26" E	5°26'23"
C9	125.00	7.86	7.85	S 86°57'21" E	3°36'02"
C10	125.00	28.51	28.44	S 76°37'22" E	13°03'55"
C11	125.00	40.49	40.31	S 62°48'36" E	18°33'34"
C12	125.00	72.66	71.64	S 36°52'40" E	33°18'18"
C13	125.00	37.33	37.19	S 11°40'12" E	17°06'38"
C14	125.00	9.51	9.51	S 09°56'08" E	4°21'31"
C15	75.00	32.26	32.01	S 11°04'36" E	24°38'29"
C16	25.00	38.18	34.58	S 67°03'00" E	37°30'15"
C17	25.00	2.46	2.46	N 22°50'46" W	5°35'46"
C18	125.00	38.04	37.90	N 16°57'02" W	17°26'16"
C19	125.00	20.63	20.65	S 03°23'36" E	9°29'31"
C20	75.00	3.17	3.17	N 00°01'55" E	2°25'56"
C21	75.00	114.64	103.80	S 44°56'05" E	87°34'34"
C22	75.00	114.66	103.85	S 47°28'53" W	87°27'03"
C23	75.00	3.17	3.17	S 02°27'17" W	2°25'18"
C24	75.00	38.22	37.81	S 13°21'16" E	29°11'48"
C25	25.00	45.20	39.29	S 79°44'33" E	103°34'48"
C26	100.00	80.44	78.29	N 21°48'01" W	46°05'16"
C27	100.00	157.08	141.42	N 46°14'38" E	90°00'00"
C28	100.00	157.08	141.42	S 43°45'22" E	90°00'00"
C29	100.00	45.97	45.89	S 12°47'01" E	28°03'19"
C30	461.56	78.53	78.53	N 73°58'39" E	9°45'37"
C31	461.56	47.60	47.58	N 66°05'35" E	5°54'32"
C32	461.56	47.40	47.47	N 10°14'29" E	6°53'41"
C33	461.56	97.78	97.60	N 51°13'29" E	12°08'18"
C34	25.00	33.74	31.24	S 19°37'56" W	77°19'24"
C35	75.00	70.95	67.32	S 27°59'58" W	53°30'40"
C36	125.00	72.66	71.64	N 36°52'40" W	33°18'18"

LINE	BEARING	DISTANCE
L1	S 01°14'38" W	17.58
L2	N 88°45'22" W	16.19
L3	S 88°45'22" E	20.15
L4	N 01°14'38" E	16.50
L5	S 01°14'38" W	7.42
L6	S 01°12'22" W	5.62
L7	S 01°14'38" W	13.29
L8	S 09°35'34" E	14.85
L9	S 01°14'38" W	9.52
L10	S 01°14'38" W	10.00
L11	S 44°55'40" E	10.47
L12	S 28°48'41" E	19.44



REVISIONS

711 E. HOBBS STREET ATHENS, AL 35611
PHONE: (256) 687-4587
WWW.MORELLENGINEERING.COM



FINAL PLAT
of
ACADIA
AT ARLINGTON PARK

CLIENT: DOUBLEHEAD PROPERTIES, LLC
100 PINBROOK DRIVE
FLORENCE, ALABAMA

MORELL PROJECT NUMBER: 7-10-138
SCALE: 1"=60'
DATE: 10/18/2022
CHECKED BY: YTM

SHEET NUMBER
1

ORDINANCE NO. 2023-137

AN ORDINANCE FOR THE CONVERSION OF AN OPEN EASEMENT TO AN UTILITY & DRAINAGE EASEMENT LOCATED WITHIN LOTS 1-26 OF ACADIA AT ARLINGTON PARK SUBDIVISION

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 Doublehead Properties, LLC, requesting the conversion of open easement to utility and drainage easement located within Lots 1-26 in Arcadia at Arlington Park Subdivision and further described as follows:

STATE OF ALABAMA
COUNTY OF MADISON

COMMENCING AT THE NORTHEAST CORNER OF COMMON AREA 1 OF THE FINAL PLAT OF ACADIA AT ARLINGTON PARK AS RECORDED IN PLAT BOOK 2023, PAGES 3-4 IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA, SAID POINT LOCATED ON THE SOUTHERN RIGHT-OF-WAY OF ROYAL DRIVE, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED EASEMENT:

THENCE FROM THE POINT OF BEGINNING AND ALONG SAID RIGHT-OF-WAY RUN SOUTH 45 DEGREES 09 MINUTES 20 SECONDS WEST FOR A DISTANCE OF 79.24 FEET TO A POINT;

THENCE LEAVING SAID RIGHT-OF-WAY RUN SOUTH 01 DEGREE 13 MINUTES 23 SECONDS WEST FOR A DISTANCE OF 969.98 FEET TO A POINT;

THENCE RUN SOUTH 38 DEGREES 27 MINUTES 24 SECONDS WEST FOR A DISTANCE OF 8.26 FEET TO A POINT;

THENCE RUN NORTH 01 DEGREE 13 MINUTES 23 SECONDS EAST FOR A DISTANCE OF 971.37 FEET TO A POINT ON THE SOUTHERN RIGHT-OF-WAY FOR ROYAL DRIVE;

THENCE ALONG SAID RIGHT-OF-WAY RUN NORTH 45 DEGREES 09 MINUTES 20 SECONDS EAST FOR A DISTANCE OF 7.21 FEET AND BACK TO THE POINT OF BEGINNING;

SAID EASEMENT CONTAINS 0.11 ACRES +/-.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Madison, Alabama, that the above-described open easement is converted to utility and drainage easement, and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same.

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

Ranae Bartlett, Council President
City of Madison, Alabama

ATTEST:

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

APPROVED this _____ day of April 2023.

Paul Finley, Mayor
City of Madison, Alabama

ORDINANCE NO. 2023-138

AN ORDINANCE FOR THE VACATION OF A UTILITY AND DRAINAGE EASEMENT LOCATED WITHIN THE HEIGHTS AT TOWN MADISON SUBDIVISION

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 Old Town Investments, LLC, requesting the vacation of utility and drainage easement located within Lots 1-25 of The Heights at Town Madison, Phase 5 and further described as follows:

STATE OF ALABAMA
COUNTY OF MADISON

ALL THAT PART OF LOTS 1-17 OF THE HEIGHTS AT TOWN MADISON, PHASE 5, A RESUBDIVISION OF TRACT B, THE HEIGHTS AT TOWN MADISON, PHASE 1A, A RESUBDIVISION OF TRACT B, THE HEIGHTS AT TOWN MADISON, A RESUBDIVISION OF TRACT B, TOWN MADISON, AS SHOWN BY THE MAP OR PLAT OF SAID SUBDIVISION RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE OF MADISON COUNTY, ALABAMA IN PLAT BOOK 2022, PAGES 424-426, BEING THE SOUTH 10 FEET OF AND EXISTING 20 FOOT WIDE UTILITY AND DRAINAGE EASEMENT LYING SOUTH OF AND ADJACENT TO THE SOUTH RIGHT-OF-WAY OF TOWN MADISON BOULEVARD, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY OF SAID TOWN MADISON BOULEVARD, THENCE SOUTH 45 DEGREES 29 MINUTES 17 SECONDS EAST AND ALONG THE WEST BOUNDARY OF SAID LOT 1, 10.01 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;

THENCE FROM THE POINT OF BEGINNING, AND ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 541.00 FEET, A CHORD BEARING AND DISTANCE OF NORTH 45 DEGREES 54 MINUTES 44 SECONDS EAST, 26.44 FEET TO A POINT; THENCE NORTH 44 DEGREES 30 MINUTES 43 SECONDS EAST, 247.52 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 609.00 FEET, A CHORD BEARING AND DISTANCE OF NORTH 56 DEGREES 46 MINUTES 14 SECONDS EAST, 258.61 FEET TO A POINT ON THE WEST BOUNDARY OF AN EXISTING 6.00 FOOT WIDE UTILITY AND DRAINAGE EASEMENT; THENCE ALONG THE SAID WEST BOUNDARY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 9.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 36 DEGREES 17 MINUTES 12 SECONDS EAST, 5.78 FEET TO A POINT; THENCE CONTINUE ALONG THE SAID WEST BOUNDARY, SOUTH 17 DEGREES 30 MINUTES 02 SECONDS EAST, 4.42 FEET TO A POINT ON THE SOUTH BOUNDARY OF AN EXISTING 20 FOOT WIDE UTILITY AND DRAINAGE EASEMENT; THENCE ALONG THE SAID SOUTH BOUNDARY, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 599.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 56 DEGREES 49 MINUTES 51 SECONDS WEST, 255.60 FEET TO A POINT; THENCE CONTINUE ALONG THE SAID SOUTH BOUNDARY, SOUTH 44 DEGREES 30 MINUTES 43 SECONDS WEST, 247.52 FEET TO A POINT OF CURVATURE; THENCE CONTINUE

ALONG THE SAID SOUTH BOUNDARY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 551.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 45 DEGREES 53 MINUTES 12 SECONDS WEST, 26.44 FEET TO A POINT ON THE WEST BOUNDARY OF SAID LOT 1; THENCE ALONG THE SAID WEST BOUNDARY, NORTH 45 DEGREES 29 MINUTES 17 SECONDS WEST, 10.01 FEET TO THE POINT OF BEGINNING AND CONTAINING 5336 SQUARE FEET, MORE OR LESS.

ALSO:

ALL THAT PART OF LOTS 18-25 OF THE HEIGHTS AT TOWN MADISON, PHASE 5, A RESUBDIVISION OF TRACT B, THE HEIGHTS AT TOWN MADISON, PHASE 1A, A RESUBDIVISION OF TRACT B, THE HEIGHTS AT TOWN MADISON, A RESUBDIVISION OF TRACT B, TOWN MADISON, AS SHOWN BY THE MAP OR PLAT OF SAID SUBDIVISION RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE OF MADISON COUNTY, ALABAMA IN PLAT BOOK 2022, PAGES 424-426, BEING THE SOUTH 10 FEET OF AND EXISTING 20 FOOT WIDE UTILITY AND DRAINAGE EASEMENT LYING SOUTH OF AND ADJACENT TO THE SOUTH RIGHT-OF-WAY OF TOWN MADISON BOULEVARD, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 25, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY OF SAID TOWN MADISON BOULEVARD, THENCE SOUTH 02 DEGREES 40 MINUTES 21 SECONDS EAST AND ALONG THE EAST BOUNDARY OF SAID LOT 25, 10.00 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; THENCE FROM THE POINT OF BEGINNING CONTINUE ALONG THE SAID EAST BOUNDARY, SOUTH 02 DEGREES 40 MINUTES 21 SECONDS EAST, 10.00 FEET TO A POINT ON THE SOUTH BOUNDARY OF AN EXISTING 20 FOOT WIDE UTILITY AND DRAINAGE EASEMENT; THENCE ALONG THE SAID SOUTH BOUNDARY, SOUTH 87 DEGREES 19 MINUTES 38 SECONDS WEST, 313.85 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 599.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 81 DEGREES 35 MINUTES 18 SECONDS WEST, 119.80 FEET TO A POINT ON THE EAST BOUNDARY OF AN EXISTING 6.00 FOOT WIDE UTILITY AND DRAINAGE EASEMENT; THENCE ALONG THE SAID EAST BOUNDARY, NORTH 17 DEGREES 30 MINUTES 02 SECONDS WEST, 4.42 FEET TO A POINT OF CURVATURE; THENCE CONTINUE ALONG THE SAID EAST BOUNDARY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 9.00 FEET, A CHORD BEARING AND DISTANCE OF NORTH 01 DEGREES 17 MINUTES 08 SECONDS EAST, 5.80 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 609.00 FEET, A CHORD BEARING AND DISTANCE OF NORTH 81 DEGREES 38 MINUTES 56 SECONDS EAST, 120.52 FEET TO A POINT; THENCE NORTH 87 DEGREES 19 MINUTES 38 SECONDS EAST, 58.85 FEET TO A POINT; THENCE SOUTH 02 DEGREES 40 MINUTES 21 SECONDS EAST, 5.00 FEET TO A POINT; THENCE NORTH 87 DEGREES 19 MINUTES 38 SECONDS EAST, 10.00 FEET TO A POINT; THENCE NORTH 02 DEGREES 40 MINUTES 21 SECONDS WEST, 5.00 FEET TO A POINT; THENCE NORTH 87 DEGREES 19 MINUTES 38 SECONDS EAST 245.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 4298 SQUARE FEET, MORE OR LESS.

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 easements in favor of **Old Town Investments, LLC**, and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same.

READ, PASSED, AND ADOPTED this 24th day of April 2023.

Ranae Bartlett, Council President
City of Madison, Alabama

ATTEST:

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

APPROVED this _____ day of April 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 & drainage easement described below and does by these presents release, remise, quitclaim, and convey unto **Old Town Investments, LLC**, (hereinafter referred to as “Grantee”) any and all interest Grantor possesses which was created in and by the following described utility & drainage easement situated in Madison, Madison County, Alabama, to-wit:

STATE OF ALABAMA
 COUNTY OF MADISON

ALL THAT PART OF LOTS 1-17 OF THE HEIGHTS AT TOWN MADISON, PHASE 5, A RESUBDIVISION OF TRACT B, THE HEIGHTS AT TOWN MADISON, PHASE 1A, A RESUBDIVISION OF TRACT B, THE HEIGHTS AT TOWN MADISON, A RESUBDIVISION OF TRACT B, TOWN MADISON, AS SHOWN BY THE MAP OR PLAT OF SAID SUBDIVISION RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE OF MADISON COUNTY, ALABAMA IN PLAT BOOK 2022, PAGES 424-426, BEING THE SOUTH 10 FEET OF AND EXISTING 20 FOOT WIDE UTILITY AND DRAINAGE EASEMENT LYING SOUTH OF AND ADJACENT TO THE SOUTH RIGHT-OF-WAY OF TOWN MADISON BOULEVARD, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY OF SAID TOWN MADISON BOULEVARD, THENCE SOUTH 45 DEGREES 29 MINUTES 17 SECONDS EAST AND ALONG THE WEST BOUNDARY OF SAID LOT 1, 10.01 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;

THENCE FROM THE POINT OF BEGINNING, AND ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 541.00 FEET, A CHORD BEARING AND DISTANCE OF NORTH 45 DEGREES 54 MINUTES 44 SECONDS EAST, 26.44 FEET TO A POINT; THENCE NORTH 44 DEGREES 30 MINUTES 43 SECONDS EAST, 247.52 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 609.00 FEET, A CHORD BEARING AND DISTANCE OF NORTH 56 DEGREES 46 MINUTES 14 SECONDS EAST, 258.61 FEET TO A POINT ON THE WEST BOUNDARY OF AN EXISTING 6.00 FOOT WIDE UTILITY AND DRAINAGE EASEMENT; THENCE ALONG THE SAID WEST BOUNDARY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 9.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 36 DEGREES 17 MINUTES 12 SECONDS EAST, 5.78 FEET TO A POINT; THENCE CONTINUE ALONG THE SAID WEST BOUNDARY, SOUTH 17 DEGREES 30 MINUTES 02 SECONDS EAST, 4.42 FEET TO A POINT ON THE SOUTH BOUNDARY OF AN EXISTING 20 FOOT WIDE UTILITY AND DRAINAGE EASEMENT; THENCE ALONG THE SAID SOUTH BOUNDARY, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 599.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 56 DEGREES 49 MINUTES 51 SECONDS WEST, 255.60 FEET TO A POINT; THENCE CONTINUE ALONG THE SAID SOUTH BOUNDARY, SOUTH 44 DEGREES 30 MINUTES 43 SECONDS WEST, 247.52 FEET TO A POINT OF CURVATURE; THENCE CONTINUE ALONG THE SAID SOUTH BOUNDARY,

*Quitclaim Deed
 The Heights at Town Madison Subdivision, U&D VOE
 Page 1 of 3*

ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 551.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 45 DEGREES 53 MINUTES 12 SECODNS WEST, 26.44 FEET TO A POINT ON THE WEST BOUNDARY OF SAID LOT 1; THENCE ALONG THE SAID WEST BOUNDARY, NORTH 45 DEGREES 29 MINUTES 17 SECONDS WEST, 10.01 FEET TO THE POINT OF BEGINNING AND CONTAINING 5336 SQUARE FEET, MORE OR LESS.

ALSO:

ALL THAT PART OF LOTS 18-25 OF THE HEIGHTS AT TOWN MADISON, PHASE 5, A RESUBDIVISION OF TRACT B, THE HEIGHTS AT TOWN MADISON, PHASE 1A, A RESUBDIVISION OF TRACT B, THE HEIGHS AT TOWN MADISON, A RESUBDIVISION OF TRACT B, TOWN MADISON, AS SHOWN BY THE MAP OR PLAT OF SAID SUBDIVISION RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE OF MADISON COUNTY, ALABMA IN PLAT BOOK 2022, PAGES 424-426, BEING THE SOUTH 10 FEET OF AND EXISTING 20 FOOT WIDE UTILITY AND DRAINAGE EASEMENT LYING SOUTH OF AND ADJACENT TO THE SOUTH RIGHT-OF-WAY OF TOWN MADISON BOULEVARD, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

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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 April 2023.

*Quitclaim Deed
The Heights at Town Madison Subdivision, U&D VOE
Page 2 of 3*

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 §

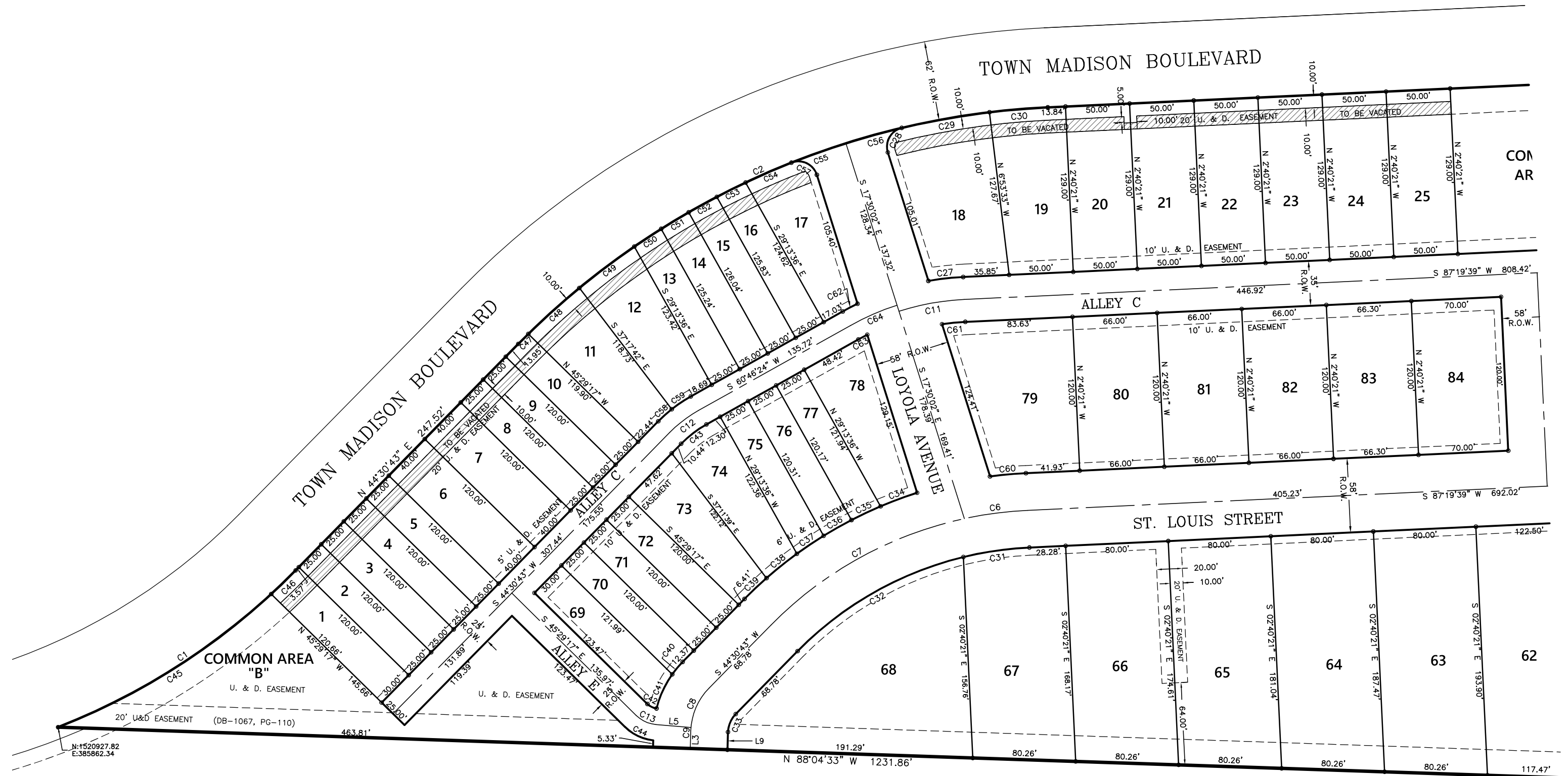
I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Paul Finley, whose name as Mayor of the City of Madison, Alabama, and Lisa Thomas, whose name as City Clerk-Treasurer of the City of Madison, Alabama, are signed to the foregoing conveyance and who 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 April 2023.

Notary Public

DOC.#2018-00075279

OLD TOWN INVESTMENTS, LLC
2101 CLINTON AVE. WEST, SUITE 201
HUNTSVILLE, AL 35805



N:1520927.82
E:385862.34

RESOLUTION NO. 2023-132-R**AUTHORIZATION TO RENEW AND AMEND A CONTRACT
WITH SARINA ENTERPRISES, INC. FOR TOWING AND
WRECKER SERVICES**

WHEREAS, in accordance with Alabama's Competitive Bid Law set forth in Title 41 of the *Code of Alabama*, the City of Madison, Alabama, by proper notice, solicited bids for the provision of towing services (Project #2022-006-ITB); and

WHEREAS, on or about April 26, 2022, all sealed Bids were timely and properly submitted in response to the Project's Invitation to Bid and were opened and read, and have been evaluated by the City to determine the lowest responsive and responsible Bidder; and

WHEREAS, after review and consideration of all Bids submitted, City staff informed the City Council that **Sarina Enterprise, Inc., d/b/a Import Wrecker Service**, has submitted a Bid for the unit prices set forth in its Bidder Pricing Sheet, for the provision of all towing services throughout the City and was the apparent lowest responsive, responsible Bidder meeting the specifications of the Project as set forth in the Invitation to Bid;

WHEREAS, on May 11, 2022 the City entered a contract with Import Wrecker Service that allowed for renewal and potential amendments to said contract prior to the end of each one (1) year term of the contract not to exceed three (3) total years;

WHEREAS, the City and Import Wrecker Services acknowledge the passage of Ordinance No. 2023-085 establishing regulations for all towing and wrecker services operating within the City of Madison and both parties hereby amend/renew their contract for a one (1) year term whereby **Sarina Enterprise, Inc., d/b/a Import Wrecker Service** agrees to abide by the regulations of Ordinance No. 2023-085 and its amendments to the City Code;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Madison, Alabama, that the Mayor shall be, and he is hereby, authorized and directed to execute an amended agreement with **Sarina Enterprise, Inc., d/b/a Import Wrecker Service**, on behalf of the City of Madison, Alabama, the terms and conditions to comport with those of the attached "Contractor Services Renewal Agreement," and that the City Clerk-Treasurer shall be, and she is hereby, authorized to attest the same.

BE IT FURTHER RESOLVED that upon request and notification from the appropriate department that the terms of the Contract preceding payment have been satisfied, the Finance Director is hereby authorized to forward payment to **Sarina Enterprise, Inc., d/b/a Import Wrecker Service**, in the amount(s) and manner set forth in the resulting agreement or purchase order authorized by passage of this resolution.

READ, PASSED AND ADOPTED this 24th day of April 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 April 2023.

Paul Finley, Mayor
City of Madison, Alabama

CONTRACTOR SERVICES RENEWAL AGREEMENT

THIS AGREEMENT for towing services is made and entered into 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 **Sarina Enterprise, Inc., d/b/a Import Wrecker Service (“Import Wrecker Service”)**, located at **30585 U.S. Highway 72, Madison, Alabama 35756**, hereinafter referred to as “Contractor.”

WITNESSETH:

WHEREAS, in accordance with the applicable competitive bid laws found in Title 41, Article 3 of the *Code of Alabama*, the City solicited bids for the provision of towing services; and

WHEREAS, the City received and, at the appointed time, opened and evaluated all properly and timely submitted sealed bids to determine the lowest responsible and responsive bidder submitting a bid in compliance with the reasonable and stated specifications of the solicitation; and

WHEREAS, the City Council, after full consideration of all bids properly and timely submitted, determined that **Import Wrecker Service**, submitted the lowest responsible and responsive bid to supply the services as specified in the solicitation; and

WHEREAS, by virtue of passage of Resolution Number 2022-132-R, the City Council awarded the bid for such services to **Import Wrecker Service**.

WHEREAS, on May 11, 2022 the City and Import Wrecker Service executed a contract whereby the City is required to notify Import Wrecker Services of its intend to renew or cancel the contract within thirty (30) days of the end of the one (1) year term (i.e., May 11, 2023).

NOW, THEREFORE, for and in consideration of mutual covenants and agreements herein set forth, the parties hereto agree to renew the contract for a one (1) year term with the terms that follow:

1. SERVICES TO BE PROVIDED; TERMS AND CONDITIONS.

Contractor shall furnish all labor, equipment, transportation, and material necessary to provide towing services as set forth in, and according to the terms and conditions of, the Invitation to Bid, the Bid Packet (including any addenda thereto), and the Bid Specifications as they were each issued in the above-referenced project, each of those documents being included by reference in Contractor’s Bid Submittal, which is, in turn, hereby fully incorporated into this Agreement.

2. COSTS AND PAYMENT.

The parties understand and agree that the pricing submitted by Contractor and accepted by the City includes all costs for all labor, equipment, transportation, and material necessary to provide these services, including any fees, materials costs, chemical costs, and fuel costs associated with Contractor’s provision of the services. Payment shall be rendered to Contractor on a monthly basis by the City after its receipt and approval of Contractor’s unified invoice, terms net thirty (30) days.

3. AMENDMENT TO AGREEMENT.

- A. Amendments to Agreement: Unless otherwise specified in this Section 3, no variation or modification of this Agreement, and no waiver of its provisions will be valid unless in writing and signed by duly authorized representatives of the City and the Contractor. Change orders may be allowed only under the following conditions:
1. Minor changes for a total monetary amount less than that required for competitive bidding under Title 41 of the Code of Alabama; or
 2. Changes for matters incidental to the original contract necessitated by unforeseeable circumstances arising in the course of work under the Contract; or
 3. Changes due to emergencies; or
 4. Changes provided for as alternates in this Contract; or
 5. Changes of items not contemplated or foreseen when the plans and specifications were prepared and the ITB was advertised, which are in the public interest, and which generally do not exceed ten percent (10%) of the Contract price, subject to Alabama Bid Law exceptions.

It is expected that the Contractor will complete the services as required in the bid packet. However, if a change order condition arises, Contractor shall immediately notify the City Representative in writing. If the change is minor in the opinion of the City Representative and does not involve (1) an increase in Contract price; (2) an extension of performance time; or (3) a material change in the scope of the Work, then the City Representative may authorize the change and the Contractor may then implement it. In the event the change is not minor and/or does involve any one or more of the criteria listed above, the City Council must authorize the Change Order before it becomes effective. In no event is a change order to be executed by Contractor prior to proper written approval, except in the case of emergencies.

- B. The parties expressly agree to amend the contract to acknowledge that Ordinance No. 2023-085 (**ATTACHED ADDENDUM EXHIBIT ONE**) was passed on or about March 13, 2023 and provides additional requirements and regulations on all towing and wrecker operations within the City of Madison. With its execution of this renewal agreement, Import Wrecker Services expressly agrees to abide by the regulations established in that Ordinance No. 2023-085.

C. EFFECTIVE DATE; COMMENCEMENT OF SERVICES; TERM.

This Agreement shall become effective when the appropriate representatives of the parties 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 effective date.

Services shall be provided by Contractor pursuant to the terms set forth herein for a period of twelve (12) months from the effective date. City reserves the right to extend this Agreement for one (1) additional one (1) year periods, not to exceed a total of three (3) years operating under the terms set forth herein. No later than thirty (30) days prior to the expiration of any twelve (12) month period properly contracted between the parties, City shall notify Contractor of its decision regarding extension of the Agreement for an additional twelve (12) months. In the event notice is not given, Contractor shall continue to provide services to City under the terms set forth herein on a month-to-month basis, the aggregate term of service not to exceed three (3) years.

4. TERMINATION.

- A. If Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or sufficient equipment, or if it should refuse or fail to make prompt payment to persons supplying labor for the Project under the Contract, or persistently disregard instructions of the City Representative, or fail to observe or perform the material provisions of the Contract Documents, or fail or neglect to promptly prosecute or perform the Project in substantial accordance with the Contract Documents, or otherwise be guilty of a substantial violation of any provision of the Contract Documents, then the City may, on giving at least thirty (30) days' written notice to the Contractor, without prejudice to any other rights or remedies of the City in the premises, terminate the Contractor's employment under the Contract if, in the judgment of the City, the noticed default(s) have not been cured within said thirty (30) days. In such event, the City may take over the Project and prosecute the same to completion, by contract or otherwise, and the Contractor and its sureties shall be liable to the City for any and all excess costs and fees occasioned to the City thereby, including attorney's fees. In the event of such termination, the same shall not relieve the Contractor or any of its sureties of their remaining obligations pursuant to this agreement. In the event it becomes necessary for the City to maintain any legal action against the Contractor, to enforce its rights herein, and City receives a final order in its favor, then the Contractor shall pay the City all expenses, costs, and fees associated therewith including a reasonable attorney's fee.
- B. It is agreed that this Agreement will automatically terminate without notice upon the occurrence of any of the following:
1. an assignment by Contractor for the benefit of creditors;
 2. the institution of voluntary or involuntary proceedings against Contractor in bankruptcy, or under any other insolvency or similar law;
 3. the dissolution of Contractor as a legal entity; or
 4. a regulation of Ordinance No. 2023-085 requires such a termination.

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

City and Contractor hereby state that it is their mutual intent that an independent contractor relationship be and hereby is established under the terms and conditions of this Agreement. They also state that it is further mutually understood and agreed that employees of the Contractor are not nor shall they be deemed to be employees of the City and that employees of the City are not nor shall they be deemed to be employees of the Contractor.

6. INDEMNIFICATION AND INSURANCE.

- A. Contractor shall indemnify and hold harmless the City from all loss or damage forming the basis of any suit, judgment, execution, claim, or demand, including costs and attorney's fees, which arise out of the Contractor's negligence or willful misconduct in the performance of its obligations under this Agreement, except to the extent that such arise out of the City's negligence.
- B. Contractor further agrees to maintain and keep in full force and effect at all times during the term of this Agreement sufficient property damage and personal injury and public liability insurance

coverage to protect the City and the Contractor against any such claims, suits, judgments, executions, or demands, such coverage to be of the types and in the amounts set forth in the Bid Packet. The Contractor shall name the City and its employees, agents, and servants as additional insureds in said policy.

- C. All insurance policies as required of the Contractor in this Agreement shall be written by a company or companies authorized and qualified to do business in the State of Alabama. Contractor shall promptly file the certificates of all coverage required hereunder with the Purchasing Division of the Finance Department within ten (10) days of the effective date of this Agreement.
- D. Each insurance policy and certificate shall provide, in effect, that the policy may not be cancelled, non-renewed, or materially changed by the insurer until at least thirty (30) days after the insurer shall have notified the City of such action in writing by sending the same to the point of contact identified in Section 20.
- E. Each insurance policy and certificate shall provide, in effect, that the policy will be renewed and further renewed unless the insurer shall give the City at least thirty (30) days' notice in writing of the insurer's unwillingness to renew by sending the same to the point of contact identified in Section 20.
- F. This insurance shall provide primary coverage as relates to other insurance carried by the City.

7. CONTRACTOR'S CARE AND DILIGENCE.

Contractor is solely responsible for all property claims and/or environmental cleanups resulting from the Contractor's vehicles, employees, actions, or omissions. Any damages to public or private property such as, but not limited to, curbing, driveways, mailboxes, or yards shall be repaired by the Contractor.

During the entire term of this Agreement, the Contractor shall, at a minimum, provide and maintain the necessary means to perform the services required by this Agreement. Any equipment that Contractor furnishes shall remain Contractor's property. To that end, it is hereby agreed that the Contractor shall adhere to the following standards and regulations in performing the services:

1. Provide all equipment necessary for the effective execution of this Agreement.
2. Keep all equipment safe, clean, neat in appearance and in good repair.
3. Keep all equipment free of excessive noise, odor leakage, or emissions.
4. Clearly identify each piece of equipment with the Contractor's name and vehicle number.
5. Provide adequate back-up equipment and maintain uninterrupted services until the completion of the project.
6. Make sure there are no spills or leaks from Contractor's vehicles or equipment.
7. Maintain equipment sufficient to handle the special requirements of the project.
8. Be responsible for any property damage claims or environmental cleanups caused by the Contractor's vehicle, equipment, and/or employees, except as set forth herein.
9. Contractor shall provide whatever measures necessary to properly protect and maintain all existing utilities encountered in the course of work and will be exclusively responsible to the utility owner for all damages incurred.
10. Obtain and pay for all necessary licenses and permits required by the City of Madison.

11. Safety precautions must be taken and shall be in compliance with all applicable provisions of federal, state, and municipal laws to prevent accidents or injury to person or property at all times.

8. SAFETY.

Contractor shall take all necessary precautions for the safety of the public, City employees, and Contractor's employees and shall comply with all applicable provisions of federal, state, and municipal safety laws and codes to prevent accidents or injury to persons and damage to property on or about or adjacent to any location where the Work is being performed. In the event of personal injury, Contractor should take necessary steps to address the immediate needs of the injured individual, contact emergency personnel, and then notify the City Representative of the injury and the location where it occurred. Contractor shall assume all responsibility for any personal injury to the extent resulting from its negligent performance of the Work and shall indemnify and hold harmless the City and its employees, officers, and agents from liability for the same. In the event of property damage caused by the Contractor, Contractor will assume all responsibility to replace or repair, at the Contractor's expense, any public or private property damaged by Contractor through the acts or omissions of its employees, agents, or subcontractors. In the event of injury or damage of any kind or extent, Contractor must immediately notify the City Representative of the injury/damage and its plan to attend to the needs of the injured and/or to replace or repair the damaged property. In the event of property damage, Contractor must also allow the City Representative the opportunity to view the damage and the repair/replacement offered prior to the damage being resolved.

9. EQUIPMENT AND ACCESS.

Contractor shall adequately protect the property of the City as well as its own equipment and take all necessary precautions while performing the services contracted hereunder to protect all persons and property from damage or loss. Contractor shall take all necessary precautions for the safety of its employees and the City's employees and shall comply with all applicable provisions of the federal, state, and local safety laws and building codes to prevent accidents and injury to persons on, about, or adjacent to the premises where services are being performed. Contractor shall post all applicable signage and other warning devices necessary to protect against potential hazards resulting from the performance of the services contracted hereunder.

10. EXCUSED PERFORMANCE.

In the event performance of any terms or provisions hereof (other than the payment of monies due and owing) 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 local, state or federal in origin, or because of riots, war, public disturbances, strikes, lockouts, differences with workmen, fires, floods, acts of God, or any other reason 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 (other than the payment of monies due and owing) during the period of such suspension of performance of duties hereunder.

11. TIME OF THE ESSENCE.

Time is of the essence in Contractor's performance of services under this Agreement.

12. IMMIGRATION LAW COMPLIANCE.

If Bidder employs persons in the State of Alabama, Bidder must provide written certification of compliance with *Ala. Code* § 31-13-9 (1975, as amended) by submitting with your Bid documentation proving your enrollment in the E-Verify program and by signing the “Immigration Law Compliance Statement” which is included in the ITB packet.

Further, the award of any Contract as a result of this ITB shall be conditioned upon the successful Bidder’s not knowingly employing, hiring for employment, or continuing to employ an unauthorized alien within the State of Alabama and swearing or affirming that it shall not violate state or federal immigration laws.

Be advised that, upon award of any Contract resulting from this ITB, the successful Bidder and the City shall therein affirm, for the duration of the agreement, that they 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, either 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 fullest extent permitted by law, the successful Bidder shall defend, indemnify, and hold harmless the City from any and all losses, consequential damages, expenses (including, but not limited to, attorneys’ fees), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Bidder’s failure to fulfill its obligations set forth in this paragraph or contained in *Ala. Code* § 31-13-1 (1975), *et seq.*

13. 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.

14. SEVERABILITY AND WAIVER.

The partial or complete invalidity of any one or more provision of this Agreement shall not affect the validity or continuing force and effect of any other provision. The failure of either party hereto to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, condition, or right as respect further performance. It is hereby understood and agreed by the parties that it is their individual and mutual intent to enter into this Contract in full compliance with Title 41 of the Code of Alabama and that, in the event any provision or the absence of any provision in this Contract conflicts therewith, Title 41 shall prevail.

15. ENTIRE AGREEMENT.

The instant document, inclusive of all other Contract Documents which have been incorporated by reference in Section 1, contains the entire Agreement between the parties with respect to the subject matter hereof and nullifies and replaces any previous Agreement or representations, whether oral or written, addressing the same. Any Agreement made hereafter shall be ineffective to modify or terminate this Agreement or constitute a waiver of any provisions hereof unless such Agreement is in writing and signed by the party against whom enforcement is sought.

16. ORDER OF PRECEDENCE.

Should there be a direct conflict between the various elements of the Contract Documents to the extent the same cannot be reconciled to be read *in para materia*, then precedence shall be given to the various component documents in the following order:

1. Change Orders or amendments to Agreement after execution
2. Agreement
3. Addenda (in reverse order of issuance) (if issued)
4. Invitation to Bid and bid specifications
5. Advertisement for Bids

Where more than one document relates to the same matter, if both can be given reasonable effect, then both shall be retained.

18. ASSIGNING OF CONTRACT.

Contractor may not assign, transfer, convey, sell, or otherwise dispose of any portion of this Agreement or any part thereof without duly authorized, written consent of the City.

19. GOVERNING LAW.

The laws of the State of Alabama shall govern this Agreement and the parties agree that proper venue for the resolution of any dispute shall be properly had in the courts of Madison County, Alabama.

20. NOTICES.

Address all notices to the City as follows:

City of Madison
Madison Police Department
100 Hughes Road
Madison, Alabama 35758

With a copy to:

City of Madison Legal Department
100 Hughes Road
Madison, Alabama 35758

Address all notices to the Contractor as follows:

Import Wrecker Services
30585 U.S. Highway 72
Madison, Alabama 35756
ATTN: Jafar Farhoudi

IN WITNESS WHEREOF, the undersigned hereby 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