



Agenda
ORGANIZATIONAL MEETING OF CITY OF MADISON, ALABAMA
6:00 PM
Council Chambers
October 10, 2022

AGENDA NO. 2022-19-OG

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 who 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. Jeff Smith, Madison Baptist Church

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL OF ELECTED GOVERNING OFFICIALS

5. AMENDMENTS TO AGENDA

6. APPROVAL OF MINUTES

A. Minutes No. 2022-18-RG, dated September 26, 2022

7. PRESENTATIONS AND AWARDS

A. Senator Tom Butler - Presentation of funds for the New Senior Center

8. 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

9. CONSENT AGENDA AND FINANCE COMMITTEE REPORT

A. Authorization of payment to Carcel & G construction, LLC. in the amount of \$683,980.74 for work completed through 8/23/2022 on CIP No.18-022 Hughes Road widening project (to be paid from 2018-C Bond account)

- B. Authorization of Payment to Morell Engineering, Inc. in the amount of \$200.00 for ADEM Inspections performed on CIP Project No. 20-028: Middle School Roadway Extension Project (Invoice No. 20180) (to be Paid From 2020-A Bond Account)
- C. **Resolution No. 2022-272-R**; providing for the disposition of personal property of negligible value via online auction through Govdeals website pursuant to SEC. 16-108 of the Code of Ordinances (City Clerk)

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

12. PUBLIC HEARINGS

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

- A. **Resolution No. 2022-271-R**; approving a request for a Restaurant Retail Liquor license from Phoenix Senior Living, LLC, dba Madison Crossings for their location at 11260 County Line Road

13. DEPARTMENT REPORTS

ENGINEERING

- A. **Resolution No. 2022-255-R**; authorizing a professional services agreement with OHM Advisors for engineering design services for Project No. 22-039, Segers and Maecille intersection improvements, in an amount not to exceed \$125,500.00 (to be paid from FY 2023 departmental budget)
- B. **Resolution No. 2022-256-R**; authorizing a professional services agreement with Kimley-Horn & Associates, Inc. for engineering design services for traffic signal and sidewalk modifications at the intersection of Wall Triana and Gooch Lane (Project No. 2022-023) in the amount of \$78,031.81 (to be paid from Engineering Department budget)
- C. **Resolution No. 2022-257-R**; authorizing a professional services agreement with Kimley-Horn & Associates, Inc. for engineering design services for traffic signal design at the intersection of Burgreen and Hardiman Lane (Project No. 22-038) in the amount of \$39,231.81 (to be paid from departmental budget)
- D. **Resolution No. 2022-258-R**; authorizing a professional services agreement with Garver, LLC for Palmer Road bridges (Project No. 22-006, BIN 2495 and 2496) to include hydrologic and hydraulic

analysis, surveying, and conceptual design for two (2) in an amount not to exceed \$199,925 (to be paid from departmental budget)

E. **Resolution No. 2022-266-R:** Acceptance of Bradford Station, Phase 1 into the City's maintenance program

F. **Resolution No. 2022-267-R:** Acceptance of Bellawoods, Phase 1 into the City's maintenance program

FIRE

A. **Resolution No. 2022 - 272-R:** Approval of Agreement for Subscription to Reporting Software for Fire Department (initial yearly subscription payment of \$29,800 to be paid from Fire Department Budget)

LEGAL

A. **Resolution No. 2022-268-R:** amending Resolution No. 2022-198-R previously adopted by the Council for the termination of an agreement between the City of Madison and Turner Construction

B. **Resolution No. 2022-269-R:** Authorizing an agreement of proposal for catastrophic inmate medical insurance from Hunt Insurance Group, LLC for an annual premium of \$8,415.36 (to be paid from General Services account)

PLANNING

A. **Proposed Ordinance No. 2022-260:** Vacation of a portion of a utility and drainage easement located at 223 Coach Lamp Drive within Willow Creek Subdivision

B. **Resolution No. 2022-264-R:** Approving a Development Agreement between the City of Madison, Alabama and McKinley Homes US, LLC, *et al.* for property located on the south side of Huntsville-Browns Ferry Road, west of Morris Drive

14. MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

15. ADJOURNMENT

16. AGENDA ITEMS

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. 2022-18-RG

OF A

REGULAR MEETING

OF THE CITY COUNCIL OF

THE CITY OF MADISON, ALABAMA

September 26, 2022

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, September 26, 2022, 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 Greg Shaw.

Associate Pastor DA Slinkard with Madison Baptist Church provided the invocation followed by the Pledge of Allegiance led by Greg Shaw.

ELECTED GOVERNING OFFICIALS IN ATTENDANCE

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

City Officials in attendance were: City Clerk-Treasurer Lisa Thomas, Deputy City Clerk Ivon Williams, City Clerk Administrative Assistant Mari Bretz, City Attorney Brian Kilgore, Information Technology Director Jason Colee, Information Technology System Analyst Chris

White, Chief Johnny Gandy, City Planner Matt Davidson, Fire Chief David Bailey, City Engineer Michael Johnson, Recreation Assistant Director Kelly Johnson, Finance Director Roger Bellomy and Human Resources Director Terri Towry

Public Attendance registered: Margi Daly, Rick Chandler, Teresa Chandler, Charlotte Campbell, Anne Clift, Jonathan Campbell, Charity Stratton, Jenessa Crossway, and Jennifer Coe

AMENDMENTS TO AGENDA

City Attorney Brian Kilgore requested the following:

- Resolution No. 2022-263-R; authorizing the execution of a Memorandum of Understanding for participation in the Alabama Drive Enforcement Task Force be added to the Police Department line of business.
- Resolution No. 2022-261-R; authorizing an agreement with the Board of Education to provide School Crossing Guards for the 2022-2023 school year.

City Clerk-Treasure Lisa Thomas requested the following:

- The addition of the Resolution No. 2022-262-R to Consent Agenda item F; Declaring a Dell printer/three drum kits as Surplus to the City – Court. These items have not value and will be placed on GovDeals.
- The addition of the Resolution No. 2022-248-R to Presentation of Reports-Council Member Wroblewski item 1; Resolution to Specify Dates Holidays Observed by City of Madison for FY 2024

Council Member Spears requested to add her nominations for Place 1 and 4 of the Waste and Water Board under her Presentation of Reports.

Council voiced no objections.

APPROVAL OF MINUTES

MINUTES NO. 2022-17-RG DATED SEPTEMBER 12, 2022

Council Member Powell moved to approve Minutes No. 2022-17-RG. Council Member Spears seconded. The roll call vote taken was 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.

MINUTES NO. 2022-04-WS DATED SEPTEMBER 7, 2022

Council Member Powell moved to approve Minutes No. 2022-04-WS. Council Member Spears seconded. The roll call vote taken was 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.

PRESENTATIONS AND AWARDS

PRESENTATION OF MADISON CITY DISABILITY ADVOCACY BOARD - CHECK TO KID'S KINGDOM PROJECT

Jenessa Crossway, Chairperson for Madison City Disability Advocacy Board appeared before Council to present a \$20,000 check to Madison Visionary Partners for the restroom needs of the Kid's Kingdom Project. Jenessa thanked the City for their support of the Kid's Kingdom Project.

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.*

Margi Daly appeared before Council to express her concerns about the lack of brightness from the streetlights that were installed in her neighborhood. Ms. Daly says the radius of the lighting is not enough for walkers throughout the neighborhood.

Council Member Wroblewski asked Ms. Daly to contact the Mayor's office to have it looked into.

Council Member Denzine mentioned that there have been similar complaints and that they are evaluating it.

CONSENT AGENDA AND FINANCE COMMITTEE REPORT

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

General Operating account	\$1,468,526.95
Special General Operating account	\$220.96
1/2 Cent Infrastructure	\$98,054.30
Gasoline Tax & Petroleum Inspection fees	\$50,532.10
TVA Tax	\$3,243.78
Street Repair and Maintenance	\$1,310.06
CIP Bond Accounts	\$34,666.81
Library Building Fund	\$465.64

Approval of payment to Croy Engineering, LLC. in the amount of \$2,961.09 for CE&I on CIP Project 18-023, Sullivan Street widening (Invoice No. 25881, Payment No. 30, PO No. 2020-0643) (To be paid from 2018-C Bond Account)

Approval of payment to Rogers Group, Inc. in the amount of \$136,489.52 for work completed through 6/30/2022 on CIP Project 18-007, Short St. widening, Kyser Blvd. improvements (Bid No. 2019-018-ITB, Invoice No. 46349, Payment No. 12, PO No. 2020-1021) (To be paid from 2015-A Bond Account)

Approval of payment to Barge Design Solutions, Inc. in the amount of \$10,748.104 for professional services completed on CIP Project 19-047, Wall Triana and I-565 Intersection Improvements, ATRP2-45-2020-327 (Invoice No. 203306, Payment No. 3, PO No. 2022-1151) (To be paid from 2015-A Bond Account)

Approval of payment to Rogers Group, Inc. in the amount of \$845,849.93 for work completed through 8/31/2022 on CIP Project 18-023, Sullivan St. widening (Invoice No. 46370, Payment No. 14, PO No. 2020-0080) (To be paid from 2018-C Bond Account)

Acceptance of Appropriations from Madison County Commission to the City of Madison Fire Department in the amount of \$11,000.00

Resolution No. 2022-262-R: Declaring a Dell printer/three drum kits as Surplus to the City - Court These items have not value and will be placed on Govdeals

Council Member Powell seconded and pointed out the check for \$11,000 from the Madison County Commission for the Fire Department. 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.

PRESENTATION OF REPORTS

MAYOR PAUL FINLEY:

Absent

COUNCIL DISTRICT NO. 1 MAURA WROBLEWSKI

RESOLUTION NO. 2022-248-R SPECIFY DATES HOLIDAYS OBSERVED BY CITY OF MADISON FOR FY 2024

Council Member Wroblewski moved to approve Resolution No. 2022-248-R. Council Member Powell 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

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

- Attended the Madison Public Library Board meeting
- Attended her last Madison City Disability Advocacy Board meeting and thanked Council Member Denzine for taking over for her due to difficulties attending both meeting at the same time.
- Reminded everyone that the library will be holding an author event on October 11th where author Jessica Pineau will present her book "Haunted North Alabama".

COUNCIL DISTRICT NO. 2 CONNIE SPEARS

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

- Reminded everyone that the Madison Street Festival is Saturday, October 1st in Downtown Madison. They will have a parade, all kinds of activities and food trucks to

COUNCIL DISTRICT NO. 3 TEDDY POWELL

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

- Thanked Fire Chief Baily and Police Chief Gandy for making the Madison Street Festival Parade happen through Downtown Madison.
- Thanked Public Works for staying on top of things such as trash getting picked up.

COUNCIL DISTRICT NO. 4 GREG SHAW

No new business to report

COUNCIL DISTRICT NO. 5 RANAE BARTLETT

RESOLUTION NO. 2022-211-R: ADOPTION OF ANNUAL OPERATING BUDGET

Council Member Bartlett provided highlights about the budget beginning with it being introduced and presented by Mayor Finley on the September 12th council meeting. The Finance Committee then met on September 20th where they discussed all the recommendations with department heads and Council Member Wroblewski and Council Member Denzine who were in attendance. Upon discussion of the recommendations there was one change that came out of the Finance Committee meeting with regards to an appropriation for The Enrichment Center.

Last year The Enrichment Center had received \$10,000, this year they had requested \$25,000, with Mayor Finley recommending \$15,000 at his presentation, the Finance Committee agreed to \$20,000. This is the only change after the budget presentation that was given on September 12th.

All other recommendations by Mayor Finley were accepted after some questions and some back and forth.

Highlights of the budget are:

- Recommending a step increase for all employees (sixth straight year)
- 3% COLA increase
- No increase to employee insurance payments
- 14 additional employees
 - 4 Police
 - 6 Recreation
 - 1 Facility Manager
 - 1 CIP Project Manager
 - 1 Bid Purchase Manager
 - 1 Communications

The only question Council Member Bartlett received from the public had to do with the designation of the American Rescue Plan Act (ARPA) funds. Council Member Bartlett advised that we received the second round of the funding and she anticipates a discussion in a upcoming Finance Committee meeting on how they will spend the funds.

Council Member Bartlett moved to approve Resolution No. 2022-211-R. Council Member Spears seconded.

Council Member Denzine expressed appreciation for city employees during many vacancies and commended them for providing services for the residents of Madison.

Council Member Wroblewski thanked the Chair of the Finance Committee Council Member Bartlett, Finance Committee members Council Member Spears and Council Member Powell for their work with the budget and the meeting that allowed council members and department heads to ask questions. 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

COUNCIL DISTRICT NO. 6 KAREN DENZINE

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

- Attended the Madison City Disability Advocacy Board meeting
- Attended the Wellstone Crisis Center Ribbon Cutting.
- Reminded the public that the Madison Police Citizens Advisory Committee will be having a meeting with guests from The ARC of Madison County.
- Thanked the community for their love and support for her family through her husband's cancer battle.

COUNCIL DISTRICT NO. 7 JOHN SEIFERT

No new business to report

BOARD/COMMITTEE APPOINTMENTS

APPOINTMENT TO PLACE 1 & PLACE 4 OF THE WASTE AND WATER BOARD

Council Member Spears nominated Kerry Straub to Place 1 and Larry Miles to Place 4 on the Waste and Water Board. With no other nominations, Mr. Straub and Mr. Miles were appointed by acclamation. Their terms will run from September 2, 2022, through September 1, 2028.

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.

PROPOSED ORDINANCE NO. 2022-217: ZONING CERTAIN PROPERTY OWNED BY HOMEMAX REALTY, LLC LOCATED AT 130 FORREST DRIVE, WEST OF NANCE ROAD, TO R-1A UPON ANNEXATION (LOW DENSITY RESIDENTIAL DISTRICT) (FIRST READING AUGUST 8, 2022. CONTINUED FROM SEPTEMBER 12, 2022 MEETING)

City Planner Matt Davidson informed Council that it is consistent with R-1A zoning and both staff and planning commission recommend for approval. Council President Shaw opened the floor for public comments regarding this request. Council President Shaw then closed the floor after no comments and entertained a motion from Council. Council Member Spears moved to approve Ordinance No. 2022-217. Council Member Powell 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.

PROPOSED ORDINANCE NO. 2022-215: REZONING CERTAIN PROPERTY OWNED BY M. ANNE CLIFT AND CHARLOTTE CAMPBELL LOCATED ON BOTH SIDES OF LANDERS ROAD, SOUTH OF BROWNS FERRY ROAD FROM R-2 (MEDIUM DENSITY RESIDENTIAL DISTRICT) TO B2 (COMMUNITY BUSINESS DISTRICT) (FIRST READING AUGUST 8, 2022. CONTINUED FROM SEPTEMBER 12, 2022 MEETING)

City Planner Matt Davidson informed Council that both staff and planning commission recommend for approval. Council President Shaw recused himself from the vote. Council President Pro Tempore Seifert opened the floor for public comments regarding this request. Council President Pro Tempe Seifert then closed the floor after no comments and entertained a motion from Council. Council Member Wroblewski moved to approve Ordinance No. 2022-215 Council Member Powell 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	Absent
Council Member Ranae Bartlett	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Aye

Motion carried.

RESOLUTION NO. 2022-254-R: DETERMINATION OF WEED LIEN ASSESSMENT FOR 101 WOODLAWN CIRCLE

City Attorney Brian Kilgore informed Council that the amount to be assess is \$498.88 and all notices to the owners have been completed. Council President Shaw opened the floor for public comments regarding this request. Council President Shaw then closed the floor after no comments and entertained a motion from Council. Council Member Powell moved to approve Resolution No. 2022-254-R. Council Member Spears 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

PLANNING

PROPOSED ORDINANCE NO. 2022-213; ASSENTING TO THE ANNEXATION OF CERTAIN PROPERTY OWNED BY HOMEMAX REALTY, L.L.C., LOCATED AT 130 FORREST DRIVE (FIRST READING AUGUST 8, 2022. CONTINUED FROM SEPTEMBER 12, 2022 MEETING)

Council Member Seifert moved to approve Ordinance No. 2022-213. 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.

RECREATION

RESOLUTION NO. 2022-249-R: AUTHORIZING AN AGREEMENT WITH THE MADISON STREET FESTIVAL FOR MARS BUS USE

Council Member Wroblewski moved to approve Resolution No. 2022-249-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.

RESOLUTION NO. 2022-250-R: AUTHORIZATION OF PROFESSIONAL SERVICES AGREEMENT WITH CROY ENGINEERING FOR STAKING OF KIDS KINGDOM PLAYGROUND RENOVATION

Council Member Wroblewski moved to approve Resolution No. 2022-250-R. Council Member Spears seconded. Council Member Wroblewski asked if demolition on the Kids Kingdom Playground have begun, Recreation Assistant Director Kelly Johnson replied that they are in the process of removing trees. Recreation Assistant Director Kelly Johnson also advised Council Member Wroblewski that there are signs up for safety. 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. 2022-259-R: APPROVAL OF AGREEMENT WITH HUNTSVILLE, ALABAMA FOR MARS DISPATCH AND FUNDING

Council Member Powell moved to approve Resolution No. 2022-259-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.

Council Member Seifert asked Recreation Assistant Director Kelly Johnson to explain how the MARS buses are going to be used for the Madison Street Festival. Recreation Assistant Director Kelly Johnson replied that there will be two MARS buses that will be available for transporting the handicap from Crosspointe Church and the Madison Stadium to the Madison Street Festival.

POLICE

RESOLUTION NO. 2022-263-R; AUTHORINZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING FOR PARTICIPATION IN THE ALABAMA DRUG ENFORCEMENT TASK FORCE

Council Member Wroblewski moved to approve Resolution No. 2022-263-R. 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.

LEGAL

RESOLUTION NO. 2022-261-R; AUTHORIZING AN AGREEMENT WITH THE BOARD OF EDUCATION TO PROVIDE SCHOOL CROSSING GUARDS FOR THE 2022-2023 SCHOOL YEAR

Council Member Wroblewski moved to approve Resolution No. 2022-261-R. Council Member Powell seconded. Council Member Bartlett asked City Attorney Brian Kilgore about the Board of Education not having their copy executed, and how is it going to be completed by September 30th. City Attorney Brian Kilgore replied that he is having it rushed through and put on their agenda. City Attorney Brian Kilgore explained that it was an oversight, when the SRO agreement was completed the Crossing Guards were not addressed, but he is working to get it completed before next week. Council Member Spears asked if the Board of Education is having a meeting on Thursday, City Attorney Brian Kilgore responded that he was not sure it would make it for that meeting if they were having one, but that he working to get it on their next meeting. 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

OCTOBER CITY COUNCIL WORK SESSION

Council Member Wroblewski asked if there would be a Council Work Session in October. Council President Shaw stated that there is none planned.

ADJOURNMENT

Having no further business to discuss Council President Shaw 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 6:36 p.m.

Minutes No. 2022-18-RG, dated September 26, 2022, read, approved and adopted this 10th day of October 2022.

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

Mari Bretz
Recording Secretary

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. 2020-00000081

DATE 10/08/2019

Reprint Purchase Order

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

NON-NEGOTIABLE

DELIVER BY
SHIP VIA
FREIGHT TERMS
PAGE 1 of 2

VENDOR 9718 - CARCEL & G CONSTRUCTION, LLC*

Contact

CARCEL & G CONSTRUCTION, LLC
31 COUNTY RD 240
HANCEVILLE, AL 35077

REFERENCE # Res. 2019-216, 2020-153, 2020-176, 2020-237, 2020-294, 2020-363

QUANTITY	UNIT	DESCRIPTION	STATUS	UNIT COST	TOTAL COST
1.0000	Each	*Item - 18-022 Hughes Rd Widening, Bid 2019-010-ITB 39-150-000-2955-11 - Project - Widen Hughes Road - Plaza to Millsford 5,954,822.30 18 022	Open	5,954,822.3000	\$5,954,822.30
1.0000	Each	*Item - Change Order #1, per Res. 2020-153-R 39-150-000-2955-11 - Project - Widen Hughes Road - Plaza to Millsford 6,612.20 18 022	Open	6,612.2000	\$6,612.20
1.0000	Each	*Item - Change Order #2, per Res. 2020-153-R 39-150-000-2955-11 - Project - Widen Hughes Road - Plaza to Millsford 52,741.00 18 022	Open	52,741.0000	\$52,741.00
1.0000	Each	*Item - Change Order #3, per Res. 2020-176-R 39-150-000-2955-11 - Project - Widen Hughes Road - Plaza to Millsford 22,839.82 18 022	Open	22,839.8200	\$22,839.82
1.0000	Each	*Item - Change Order #4, per Res. 2020-176-R 39-150-000-2955-11 - Project - Widen Hughes Road - Plaza to Millsford 54,370.00 18 022	Open	54,370.0000	\$54,370.00
100.0000	Each	*Item - Change Order #5, Per Res. 2020-237-R, ALDOT #2 Stone 39-150-000-2955-11 - Project - Widen Hughes Road - Plaza to Millsford 3,500.00 18 022	Open	35.0000	\$3,500.00
1.0000	Each	*Item - Change Order #6, Per Res. 2020-294-R 39-150-000-2955-11 - Project - Widen Hughes Road - Plaza to Millsford 2,800.00 18 022	Open	2,800.0000	\$2,800.00
1.0000	Each	*Item - Change Order #7, per Res. 2020-363-R	Open	35,363.8300	\$35,363.83

Purchasing Agent Signature

Special Instructions

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

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. 2020-00000081

DATE 10/08/2019

Reprint Purchase Order

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

NON-NEGOTIABLE**VENDOR 9718 - CARCEL & G CONSTRUCTION, LLC***

Contact

CARCEL & G CONSTRUCTION, LLC
31 COUNTY RD 240
HANCEVILLE, AL 35077



DELIVER BY
SHIP VIA
FREIGHT TERMS
PAGE 2 of 2

REFERENCE # Res. 2019-216, 2020-153, 2020-176, 2020-237, 2020-294, 2020-363

QUANTITY	UNIT	DESCRIPTION	STATUS	UNIT COST	TOTAL COST
1.0000	Each	39-150-000-2955-11 - Project - Widen Hughes Road - Plaza to Millsford 35,363.83 18 022 *Item - Change Order #8 per Res. 2021-244-R	Open	57,750.0000	\$57,750.00
1.0000	Each	39-150-000-2955-11 - Project - Widen Hughes Road - Plaza to Millsford 57,750.00 18 022 *Item - Handrails Installed in Front of Retaining Wall - St. Matthews Chu	Open	0.0000	\$0.00
		39-150-000-2955-11 - Project - Widen Hughes Road - Plaza to Millsford 0.00 18 022			
Payment #19 \$ 683,980.74					
TOTAL DUE					\$6,190,799.15

Purchasing Agent Signature

Special Instructions

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RECEIVED

AUG 31 2022

REQUEST FOR PAYMENT
CITY OF MADISON, ALCITY OF MADISON
ENGINEERING DEPARTMENTPROJECT NAME AND NUMBER: **Hughes Road Widening Proj. #: 18-022**

ESTIMATE NUMBER: 19 PERIOD FROM: 06/01/22 TO 08/23/22

CONTRACT DURATION 540 DAYS

START DATE: 10/07/19 END DATE: 3/30/21 TOTAL CONTRACT TIME (3) 540 DAYS

TIME C.O. #1 _____

TIME C.O. #2 _____

TIME C.O. #3 _____

CONTRACT DAYS REMAINING _____

TOTAL CONTRACT AMOUNT (1) AS AWARDED \$ 5,954,822.30 CURRENT \$ 6,283,730.65

C.O. #1 & 2	\$	59,353.20
C.O. #3 & 4	\$	77,209.82
C.O. #5	\$	3,500.00
C.O. #6	\$	2,800.00
C.O. #7	\$	35,363.83
C.O. #8	\$	57,750.00
Eastside Culvert		<u>92,931.50</u>

TOTAL AMOUNT EARNED TO DATE LESS STORED MATERIALS (2): \$ 3,532,116.80MATERIAL STORED (INVOICE ATTACHED) \$ 124,516.51RETAINAGE (5%) OF 50% OF CONTRACT \$ 157,093.27AMOUNT EARNED AFTER RETAINAGE \$ 3,499,540.04

LIQUIDATED DAMAGES PER DAY 1550

LIQUIDATED DAMAGES ASSESSED TO DATE: -

TOTAL AMOUNT PREVIOUSLY APPROVED TO DATE: \$ 2,815,559.30AMOUNT DUE THIS ESTIMATE WITHOUT LIQUIDATED DAMAGES \$ 683,980.74

A: % OF TIME ELAPSED: TIME ELAPSED TO DATE 678 DAYS = 126%

TOTAL CONTRACT TIME (3) 540 DAYS

B: PROJECT COMPLETION: TOTAL EARNED TO DATE (2) 3,532,116.80 = 56%

TOTAL CONTRACT AMOUNT 6,283,730.65

C: PROGRESS OF WORK B - A: = -69%

CONTRACTORS CERTIFICATE

I, Carmen S. Hastings the duly qualified, acting and authorized agent for the contractor Carcel & G Construction, LLC on the above project, do hereby certify that we have performed all of the work set forth in strict accordance with the plans, specifications, laws and ordinances applicable thereto, and do further certify that all labor, materials and equipment listed herein have been paid for in full as allowed on all prior estimates and if requested to do so, we will show evidence of payment for the same in writing before the final payment of this estimate. We further certify (if this is the final estimate) that the amount received hereunder is considered compensation and final payment in full for all work performed under the contract, including any amendments thereto and, upon payment of said sum, hereby release the Owner, its employees, agents, and representatives in accordance with said contract. We further certify that we fully guarantee all work performed hereunder for a period of twelve months from the date of payment of the final estimate (in accordance with the terms of our original contract and all amendments thereto), during which time all terms and conditions of the original contract document shall remain in full force and effect, including the insurance requirements, Hold Harmless Agreement, and Indemnification Agreement as contained in said contract documents.

CERTIFIED FOR PAYMENT ON THIS THE 26

DAY OF

Aug-22BY: Carmen S. HastingsCONTRACTOR: Carcel & G Construction, LLCTITLE: Managing MemberWITNESS: Amber Cordes

SIGNATURE

We have checked the quantities and extensions to this estimate, and to the best of our knowledge, the estimate is true and correct.

APPROVED FOR PAYMENT

CONSTRUCTION INSPECTOR

BY:

???????, CITY ENGINEER
OR ????????, ADMINISTRATIVE OFFICERBY: E. Michelle Dunsen
PROJECT ENGINEERIF FINAL ESTIMATE, DATE WORK WAS
COMPLETED: 9/1/2022

CONTRACTOR NAME: Carcel & G Construction, LLC
 CONTRACTOR ADDRESS: 31 Co Rd 240, Hanceville, AL 35077
 PROJECT NAME: Hughes Road Widening
 PROJECT NUMBER: 18-022
 ESTIMATE # 19

ITEM	DESCRIPTION	BID QUANTITY	BID UNIT	BID UNIT PRICE	REVISED UNIT PRICE	BID AMOUNTS	PREVIOUS MONTH QUANTITIES	CURRENT MONTH QUANTITIES	CURRENT MONTH ESTIMATE	TOTAL QUANTITY TO DATE	TOTAL AMOUNT EARNED TO DATE
1	CLEARING AND GRUBBING (APPROXIMATELY 13 ACRES)	1.00	LUMP SUM	80,000.00		80,000.00	0.70	0.30	24,000.00	1.00	80,000.00
2	REMOVING CONCRETE SIDEWALKS	277.00	SQ YD	11.00		3,047.00	10.30	-	-	10.30	113.30
3	REMOVING ASPHALT SIDEWALKS	3,408.00	SQ YD	9.00		30,672.00	3,087.60	-	-	3,087.60	27,788.40
4	REMOVING CONCRETE FLUMES	245.00	SQ YD	13.00		3,185.00	250.00	1.50	19.50	251.50	3,269.50
5	REMOVING PIPE	1,240.00	LIN FT	12.50		15,500.00	93.00	-	-	93.00	1,162.50
6	REMOVING CURB AND GUTTER	4,188.00	LIN FT	11.75	12.75	49,209.00	1,388.50	480.00	6,120.00	1,868.50	22,434.88
7	REMOVING FENCE	30.00	LIN FT	12.00		360.00	408.00	-	-	408.00	4,896.00
8	REMOVING HEADWALLS, INLETS, JUNCTION BOXES, ETC	46.00	EACH	400.00		18,400.00	6.00	6.00	2,400.00	12.00	4,800.00
9	MAILBOX (REMOVE AND RELOCATE)	5.00	EACH	400.00		2,000.00	1.00	-	-	1.00	400.00
10	UNCLASSIFIED EXCAVATION	1,412.00	CU YD	27.00	30.50	38,124.00	3,390.00	2,100.00	64,050.00	5,490.00	155,580.00
11	BORROW EXCAVATION	16,875.00	CU YD	20.00	24.00	337,600.00	3,150.00	30.00	720.00	3,180.00	63,720.00
12	CRUSHED AGGREGATE BASE COURSE, TYPE B, PLANT MIXED,	7,602.00	SQ YD	10.50		79,821.00	962.00	120.00	1,260.00	1,082.00	11,361.00
13	CRUSHED AGGREGATE BASE COURSE, TYPE B, PLANT MIXED,	19,601.00	SQ YD	20.00	26.00	390,020.00	11,301.08	8,968.00	232,856.00	20,257.08	458,877.60
14	BITUMINOUS TREATMENT A	14,472.00	SQ YD	1.30		18,813.60	-	-	-	-	-
15	TACK COAT	1,627.00	GALLON	4.20		6,833.40	2,325.00	-	-	2,325.00	9,765.00
16	PLANING EXISTING PAVEMENT (APPROXIMATELY 0.0" THRU	34,662.00	SQ YD	3.30		114,384.60	43,339.00	-	-	43,339.00	143,018.70
subtotal						1,187,869.60	69,712.18	11,693.80	331,425.50	81,405.98	987,186.88
17	SUPERPAVE BITUMINOUS CONCRETE WEARING SURFACE	2,835	TON	117.00		331,695.00	744.43	692.53	81,026.01	1,436.96	168,124.32
18	SUPERPAVE BITUMINOUS CONCRETE WEARING SURFACE	1,050	TON	132.00		138,600.00	469.10	-	-	469.10	61,921.20
19	SUPERPAVE BITUMINOUS CONCRETE UPPER BINDER LAYER,	2,829	TON	105.00		297,045.00	4,374.12	51.56	5,413.80	4,425.68	464,696.40
20	SUPERPAVE BITUMINOUS CONCRETE UPPER BINDER,	200	TON	200.00		40,000.00	-	-	-	-	-
21	SUPERPAVE BITUMINOUS CONCRETE UPPER BINDER LAYER,	600	TON	150.00		90,000.00	391.33	-	-	391.33	58,699.50
22	SUPERPAVE BITUMINOUS CONCRETE BASE LAYER, 1"	276	TON	120.00		33,120.00	-	-	-	-	-
23	STEEL REINFORCEMENT, PER ALDOT SPECIFICATION #502	43,370	LBS	1.30		56,381.00	21,685.00	-	-	21,685.00	28,190.50
24	CULVERT CONCRETE (CAST-IN-PLACE), PER ALDOT	200	CU YD	800.00		160,000.00	105.50	-	-	105.50	84,400.00
25	RETAINING WALL (REDI-ROCK COBBLESTONE), COMPLETE IN	6,989	SQ FT	63.00		440,315.82	6,989.14	-	-	6,989.14	440,315.82
26	ALLOY STEEL HANDRAIL, INSTALLED ON RETAINING WALL,	1,260	LIN FT	149.00		187,740.00	1,130.00	642.00	95,658.00	1,772.00	264,028.00
27	18" ROADWAY PIPE (CLASS 3 R.C.), COMPLETE IN PLACE, TO	4,652	LIN FT	64.00	77.75	297,728.00	41.00	-	-	41.00	2,624.00
28	24" ROADWAY PIPE (CLASS 3 R.C.), COMPLETE IN PLACE, TO	1,177	LIN FT	79.00	99.27	92,983.00	8.00	-	-	8.00	632.00
29	30" ROADWAY PIPE (CLASS 3 R.C.), COMPLETE IN PLACE, TO	352	LIN FT	103.00	152.18	36,266.00	-	-	-	-	-
30	36" ROADWAY PIPE (CLASS 3 R.C.), COMPLETE IN PLACE, TO	429	LIN FT	112.00	150.13	48,048.00	-	32.00	4,804.16	32.00	4,804.16
subtotal						2,249,911.82	35,937.62	1,418.09	186,901.97	37,355.71	1,578,435.90
31	22" SPAN, 14" RISE, ROADWAY PIPE (CLASS 3 R.C.),	80	LIN FT	100.00	121.19	8,000.00	204.50	-	-	204.50	20,450.00
32	29" SPAN, 18" RISE, ROADWAY PIPE (CLASS 3 R.C.),	293	LIN FT	118.00	148.01	34,674.00	12.00	-	-	12.00	1,416.00
33	36" SPAN, 23" RISE, ROADWAY PIPE (CLASS 3 R.C.),	171	LIN FT	140.00		23,940.00	-	1.50	210.00	1.50	210.00
34	44" SPAN, 27" RISE, ROADWAY PIPE (CLASS 3 R.C.),	86	LIN FT	168.00		14,448.00	-	-	-	-	-
35	51" SPAN, 31" RISE, ROADWAY PIPE (CLASS 3 R.C.),	523	LIN FT	215.00		112,445.00	-	-	-	-	-
36	MOBILIZATION	1	LUMP SUM	400,000.00	475,000.00	400,000.00	0.50	-	-	0.50	200,000.00
37	LOOSE RIP RAP, CLASS 2	106	TON	45.00		4,770.00	-	-	-	-	-
38	FILTER BLANKET	90	SQ YD	3.00		270.00	442.88	-	-	442.88	1,328.64
39	SLOPE PAVING	10	CU YD	575.00	820.00	5,750.00	12.50	3.00	2,460.00	15.50	9,647.50
40	CONCRETE SIDEWALK, 4" THICK	50	SQ YD	92.00	110.00	4,600.00	48.00	38.27	4,209.70	84.27	8,441.70
41	CONCRETE DRIVEWAY, 6" THICK (INCLUDES WIRE MESH)	188	SQ YD	160.00	270.00	26,880.00	-	-	-	-	-
42	CONCRETE CURB RAMP WITH TRUNCATED DOMES, 6" THICK	34	EACH	1,600.00	2,150.00	54,400.00	-	2.00	4,300.00	2.00	4,300.00
43	18" ROADWAY PIPE END TREATMENT, CLASS 1, PER ALDOT	1	EACH	1,000.00	2,200.00	1,000.00	-	-	-	-	-
44	24" ROADWAY PIPE END TREATMENT, CLASS 1	2	EACH	1,150.00	2,350.00	2,300.00	-	1.00	2,350.00	1.00	2,350.00
45	30" ROADWAY PIPE END TREATMENT, CLASS 1	1	EACH	1,300.00	2,500.00	1,300.00	-	-	-	-	-
46	36" ROADWAY PIPE END TREATMENT, CLASS 2	2	EACH	2,700.00	3,900.00	5,400.00	-	-	-	-	-
47	3' BOX CULVERT WINGWALLS	1	EACH	6,000.00		6,000.00	1.00	-	-	1.00	6,000.00
48	MINOR STRUCTURE CONCRETE	25	CU YD	340.00	980.00	8,500.00	9.00	4.75	4,655.00	13.75	7,715.00
49	JUNCTION BOX, SMALL (15" TO 30" PIPES) COMPLETE IN	11	EACH	2,800.00	4,800.00	30,800.00	5.00	2.00	9,600.00	7.00	23,600.00
50	JUNCTION BOX, LARGE (36" & LARGER PIPES) COMPLETE IN	10	EACH	5,200.00	6,200.00	52,000.00	-	-	-	-	-
subtotal						797,377.00	733.38	52.52	27,784.70	785.90	285,458.84
51	JUNCTION BOX, LARGE /W OPEN THROAT INLET (36" &	4	EACH	5,900.00	6,900.00	23,600.00	-	-	-	-	-
52	SINGLE CURB INLET, COMPLETE IN PLACE, TO INCLUDE	10	EACH	4,000.00	4,500.00	40,000.00	-	-	-	-	-
53	DOUBLE CURB INLET, COMPLETE IN PLACE, TO INCLUDE	3	EACH	5,400.00	5,750.00	16,200.00	-	1.00	5,750.00	1.00	5,750.00
54	OPEN GRATE INLET, COMPLETE IN PLACE, TO INCLUDE	7	EACH	3,300.00	4,300.00	23,100.00	1.00	2.00	8,600.00	3.00	11,900.00
55	OPEN THROAT INLET, COMPLETE IN PLACE, TO INCLUDE	9	EACH	3,300.00	4,300.00	29,700.00	3.00	3.00	12,900.00	6.00	22,800.00
56	INLETS, TYPE "S" (MODIFIED) (1-WING), COMPLETE IN PLACE,	68	EACH	4,400.00	5,400.00	299,200.00	2.32	-	-	2.32	10,208.00

CONTRACTOR NAME: Carcel & G Construction, LLC
 CONTRACTOR ADDRESS: 31 Co Rd 240, Hanceville, AL 35077
 PROJECT NAME: Hughes Road Widening
 PROJECT NUMBER: 18-022
 ESTIMATE # 19

ITEM	DESCRIPTION	BID QUANTITY	BID UNIT	BID UNIT PRICE	REVISED UNIT PRICE	BID AMOUNTS	PREVIOUS MONTH QUANTITIES	CURRENT MONTH QUANTITIES	CURRENT MONTH ESTIMATE	TOTAL QUANTITY TO DATE	TOTAL AMOUNT EARNED TO DATE
57	INLETS, TYPE "S" (MODIFIED) (2-WING), COMPLETE IN PLACE,	3	EACH	4,600.00	5,600.00	13,800.00	1.16	1.00	5,600.00	2.16	10,936.00
58	CONVERT EXISTING INLET TO JUNCTION BOX	2	EACH	2,600.00	3,800.00	5,200.00	3.00	2.00	7,600.00	5.00	15,400.00
59	CONVERT EXISTING 'S' TYPE INLET TO CURB INLET	1	EACH	2,600.00	3,600.00	2,600.00	-	-	-	-	-
60	CONNECT TO BOX CULVERT EXTENSION	4	EACH	4,000.00	-	16,000.00	2.00	-	-	2.00	8,000.00
61	CONNECT TO EXISTING BOX CULVERT AND PROVIDE ACCESS	2	EACH	4,000.00	-	8,000.00	1.00	-	-	1.00	4,000.00
62	COMBINATION CURB & GUTTER, TYPE C (MODIFIED)	11,100	LIN FT	12.60	35.00	139,860.00	3,974.00	148.00	5,180.00	4,122.00	55,252.40
63	ADJUST TOP OF EXISTING JUNCTION BOX	2	EACH	2,500.00	2,950.00	5,000.00	1.00	-	-	1.00	2,500.00
64	SANITARY SEWER MANHOLE FRAME AND COVER RESET	21	EACH	400.00	1,150.00	8,400.00	-	-	-	-	-
65	EXCAVATE AND BACKFILL EXISTING SANITARY SEWER LINE	6,377	LIN FT	13.00	-	82,901.00	8.00	-	-	8.00	104.00
66	TOPSOIL, PER ALDOT SPECIFICATION #650	500	CU YD	18.00	20.00	9,000.00	-	-	-	-	-
67	TOPSOIL FROM STOCKPILES, PER ALDOT SPECIFICATION #650	900	CU YD	15.00	19.00	13,500.00	1,020.00	90.00	1,710.00	1,110.00	17,010.00
68	SEEDING, PER ALDOT SPECIFICATION #652	3	ACRE	1,100.00	3,100.00	3,300.00	1.41	2.00	6,200.00	3.41	7,761.00
69	MOWING, PER ALDOT SPECIFICATION #652	3	ACRE	330.00	1,080.00	990.00	-	-	-	-	-
70	SOLID SODDING, PER ALDOT SPECIFICATION #654	10,000	SQ YD	5.00	11.50	50,000.00	1,200.00	-	-	1,200.00	6,000.00
71	MULCHING, PER ALDOT SPECIFICATION #656	3	ACRE	1,100.00	1,500.00	3,300.00	1.41	-	-	1.41	1,551.00
subtotal						793,651.00	6,219.30	249.00	53,540.00	6,468.30	179,162.40
72	EROSION CONTROL PRODUCT, TYPE C2, PER ALDOT	1,500	SQ YD	2.50	-	3,750.00	-	-	-	-	-
73	TEMPORARY SEEDING, PER ALDOT SPECIFICATION #665	3	ACRE	900.00	1,200.00	2,700.00	-	-	-	-	-
74	TEMPORARY MULCHING, PER ALDOT SPECIFICATION #665	3	ACRE	900.00	1,100.00	2,700.00	-	-	-	-	-
75	SILT FENCE, PER ALDOT SPECIFICATION #665	5,600	LIN FT	3.50	5.25	18,600.00	3,798.00	-	-	3,798.00	13,293.00
76	SILT FENCE REMOVAL	5,600	LIN FT	1.00	-	5,600.00	1,346.00	303.00	303.00	1,649.00	1,649.00
77	INLET PROTECTION, STAGE 3 OR 4, PER ALDOT	123	EACH	330.00	480.00	40,590.00	-	-	-	-	-
78	WATTLE	2,500	LIN FT	8.80	9.80	22,000.00	780.00	-	-	780.00	6,864.00
79	GEOMETRIC CONTROLS	1	LUMP SUM	100,000.00	-	100,000.00	0.12	-	-	0.12	11,681.00
80	SOLID WHITE, CLASS 2, TYPE A TRAFFIC STRIPE (5" WIDE),	1	MILE	3,750.00	3,950.00	3,750.00	-	-	-	-	-
81	SOLID YELLOW, CLASS 2, TYPE A TRAFFIC STRIPE (5" WIDE),	3	MILE	3,750.00	3,950.00	11,250.00	-	-	-	-	-
82	BROKEN WHITE, CLASS 2, TYPE A TRAFFIC STRIPE (5" WIDE),	3	MILE	2,300.00	2,500.00	6,900.00	-	-	-	-	-
83	BROKEN YELLOW, CLASS 2, TYPE A TRAFFIC STRIPE (5" WIDE),	3	MILE	2,300.00	2,500.00	6,900.00	-	-	-	-	-
84	DOTTED, CLASS 2, TYPE A TRAFFIC STRIP (5" WIDE), PER	500	LIN FT	2.75	3.25	1,375.00	-	-	-	-	-
85	DOTTED, CLASS 2, TYPE A, LANE DROP STRIP (10" WIDE), PER	375	LIN FT	3.30	3.80	1,237.50	-	-	-	-	-
86	BROKEN TEMPORARY TRAFFIC STRIPE, PER ALDOT	3	MILE	1,200.00	-	3,600.00	4.24	-	-	4.24	5,092.80
subtotal						231,952.50	5,928.36	303.00	303.00	6,231.36	38,579.80
87	SOLID TEMPORARY TRAFFIC STRIPE, PER ALDOT	3	MILE	1,200.00	-	3,600.00	9.31	-	-	9.31	11,167.20
88	SOLID TRAFFIC STRIPE REMOVED, PER ALDOT SPECIFICATION	1	MILE	5,800.00	-	5,800.00	3.86	-	-	3.86	22,388.00
89	BROKEN TRAFFIC STRIPE REMOVED, PER ALDOT	1	MILE	5,800.00	-	5,800.00	2.20	-	-	2.20	12,760.00
90	TRAFFIC CONTROL MARKINGS, CLASS 2, TYPE A, PER ALDOT	4,237	SQ FT	6.00	6.50	25,422.00	-	-	-	-	-
91	TRAFFIC CONTROL LEGENDS, CLASS 2, TYPE A, PER ALDOT	202	SQ FT	6.60	7.10	1,333.20	-	-	-	-	-
92	PAVEMENT MARKERS, CLASS A-H, TYPE 2-C, PER ALDOT	50	EACH	6.00	6.50	300.00	-	-	-	-	-
93	PAVEMENT MARKERS, CLASS A-H, TYPE 1-A, PER ALDOT	160	EACH	6.00	6.50	960.00	-	-	-	-	-
94	PAVEMENT MARKERS, CLASS A-H, TYPE 1-B, PER ALDOT	175	EACH	6.00	6.50	1,050.00	-	-	-	-	-
95	PAVEMENT MARKERS, CLASS A-H, TYPE 2-D, PER ALDOT	320	EACH	6.00	6.50	1,920.00	-	-	-	-	-
96	CLASS 4, ALUMINUM FLAT SIGN PANELS 0.08" THICK OR	119	SQ FT	22.00	-	2,618.00	-	-	-	-	-
97	CLASS 8, ALUMINUM FLAT SIGN PANELS 0.08" THICK OR	52	SQ FT	28.00	-	1,456.00	-	-	-	-	-
98	ROADWAY SIGN POST (#3 "U" CHANNEL, GALVANIZED STEEL	338	LIN FT	14.00	-	4,732.00	-	-	-	-	-
99	REMOVAL OF EXISTING TRAFFIC CONTROL UNIT (Hughes Rd &	1	LUMP SUM	10,000.00	-	10,000.00	-	-	-	-	-
100	FURNISHING AND INSTALLING TRAFFIC CONTROL UNIT	1	LUMP SUM	15,000.00	-	15,000.00	-	-	-	-	-
101	METAL TRAFFIC SIGNAL POLE FOUNDATION (SEE CO #2)	3	EACH	6,600.00	-	19,800.00	-	-	-	-	-
102	METAL TRAFFIC SIGNAL POLE WITH (60') AND (70') MAST ARM	-	EACH	53,000.00	-	-	-	-	-	-	-
103	METAL TRAFFIC SIGNAL POLE WITH TWO (70') MAST ARM	1	EACH	55,000.00	-	55,000.00	-	-	-	-	-
104	TRAFFIC SIGNAL JUNCTION BOX (SEE CO #2)	7	EACH	660.00	-	4,620.00	-	-	-	-	-
105	1" METALLIC CONDUIT	16	LIN FT	33.00	-	495.00	-	-	-	-	-
106	1" NON-METALLIC CONDUIT	15	LIN FT	44.00	-	660.00	-	-	-	-	-
107	2" NON-METALLIC CONDUIT	270	LIN FT	28.00	-	7,560.00	-	-	-	-	-
subtotal						168,126.20	15.37	-	-	15.37	46,316.20
108	VEHICULAR SIGNAL HEAD, 12 INCH, 3 SECTION, TYPE LED	8	EACH	1,300.00	-	10,400.00	-	-	-	-	-
109	VEHICULAR SIGNAL HEAD, 12 INCH, 4 SECTION, TYPE LED	4	EACH	1,500.00	-	6,000.00	-	-	-	-	-
110	PEDESTRIAN SIGNAL HEAD, TYPE LED	2	EACH	2,000.00	-	4,000.00	-	-	-	-	-
111	CONTROLLER ASSEMBLY, TYPE III, 8 PHASE	1	EACH	25,000.00	-	25,000.00	-	-	-	-	-
112	VIDEO DETECTION SYSTEM (Hughes Rd & Eastview Dr.)	1	LUMP SUM	40,000.00	-	40,000.00	-	-	-	-	-

CONTRACTOR NAME: Carcel & G Construction, LLC
 CONTRACTOR ADDRESS: 31 Co Rd 240, Hanceville, AL 35077
 PROJECT NAME: Hughes Road Widening
 PROJECT NUMBER: 18-022
 ESTIMATE # 19

ITEM	DESCRIPTION	BID QUANTITY	BID UNIT	BID UNIT PRICE	REVISED UNIT PRICE	BID AMOUNTS	PREVIOUS MONTH QUANTITIES	CURRENT MONTH QUANTITIES	CURRENT MONTH ESTIMATE	TOTAL QUANTITY TO DATE	TOTAL AMOUNT EARNED TO DATE
113	FURNISHING AND INSTALLING PEDESTAL POLE AND	4	EACH	2,800.00		11,200.00	-	-	-	-	-
114	REMOVE AND RELOCATE OF PEDESTAL POLE AND	1	EACH	2,800.00		2,800.00	-	-	-	-	-
115	REMOVE AND RELOCATE OF PEDESTAL POLE AND	1	EACH	2,800.00		2,800.00	-	-	-	-	-
116	CONSTRUCTION SIGNS, PER ALDOT SPECIFICATION #740	200	SQ FT	16.50		3,300.00	477.50	-	-	477.50	7,878.75
117	CHANNELIZING DRUMS	225	EACH	53.50		12,037.50	317.00	-	-	317.00	16,959.50
118	CONES (36 INCH HIGH)	75	EACH	24.50		1,837.50	80.00	-	-	80.00	1,960.00
119	BALLAST FOR CONE	75	EACH	11.60		870.00	-	-	-	-	-
120	PORTABLE SEQUENTIAL ARROW AND CHEVRON SIGN UNIT	2	EACH	4,860.00		9,700.00	1.00	-	-	1.00	4,850.00
121	PORTABLE CHANGEABLE MESSAGE SIGN, TYPE 2, PER ALDOT	2	EACH	9,370.00		18,740.00	-	-	-	-	-
122	6" ELECTRICAL CONDUIT, 1 LINE, TYPE 5 INSTALLATION	220	LIN FT	82.70		18,194.00	-	-	-	-	-
123	SUPERPAVE BITUMINOUS CONCRETE LOWER BINDER LAYER,	1,234	TON	105.00		129,570.00	1,380.57	-	-	1,380.57	144,959.85
CHANGE ORDERS											
CO 1.1	(3) WATER VAULTS IN FRONT OF BOB JONES HIGH SCHOOL	1	LUMP SUM	6,612.20		6,612.20	1.00	-	-	1.00	6,612.20
CO 2.1	METAL TRAFFIC SIGNAL POLE WITH 1 (60') ARM	1	EACH	40,881.00		40,881.00	-	-	-	-	-
CO 2.2	METAL TRAFFIC SIGNAL POLE WITH 1 (70') ARM	1	EACH	42,100.00		42,100.00	-	-	-	-	-
CO 2.3	FURNISH AND INSTALL OPTICOM SYSTEM AT INTERSECTION	1	LUMP SUM	12,700.00		12,700.00	-	-	-	-	-
						398,742.20	2,257.07	-	-	2,257.07	183,220.30
CO 3.1	FREIGHT - RETURN SHIPPING FEE FOR 14 BOTTOM BLOCKS	1	LUMP SUM	550.00		550.00	1.00	-	-	1.00	550.00
CO 3.2	ENGINEERING - REDESIGN FEE OF RETAINING WALL #5	1	LUMP SUM	735.00		735.00	1.00	-	-	1.00	735.00
CO 4.1	18" SPAN, 11" RISE, ROADWAY PIPE (CLASS 3 R.C.),	255	EACH	94.00	112.50	23,970.00	262.00	-	-	262.00	24,628.00
CO 4.2	22"X14" ROADWAY PIPE END TREATMENT, CLASS 1	8	EACH	1,250.00	2,450.00	10,000.00	-	-	-	-	-
CO 4.3	29"X18" ROADWAY PIPE END TREATMENT, CLASS 1	1	EACH	1,500.00	2,750.00	1,500.00	-	-	-	-	-
CO 4.4	36"X23" ROADWAY PIPE END TREATMENT, CLASS 1	1	EACH	2,700.00		2,700.00	-	-	-	-	-
CO 4.5	51"X31" ROADWAY PIPE END TREATMENT, CLASS 1	1	EACH	5,000.00		5,000.00	-	-	-	-	-
CO 4.6	OPEN GRATE INLET, TRAFFIC TYPE, COMPLETE IN PLACE, TO	1	EACH	3,700.00	4,700.00	3,700.00	-	-	-	-	-
CO 4.7	SUMP EXCAVATION	180	CU YD	30.00		5,400.00	-	-	-	-	-
CO 4.8	FLOWABLE FILL	15	CU YD	140.00		2,100.00	-	-	-	-	-
CO 5.1	ALDOT #2 STONE	100	TN	35.00	42.00	3,500.00	50.00	-	-	50.00	1,750.00
CO 6.1	INSTALL TEMPORARY TRAFFIC SIGNAL LINE (EASTVIEW)	1	LS	2,800.00		2,800.00	-	-	-	-	-
CO 7.1	CONCRETE STRIP IN FRONT OF WALLS - 1 FT DEEP (1262 LF	1	LS	27,968.98		27,968.98	1.00	-	-	1.00	27,968.98
CO 7.2	CONCRETE STEPS POURED IN PLACE AT WALL LOCATION	1	LS	5,044.00		5,044.00	1.00	-	-	1.00	5,044.00
CO 7.3	GATE AT STEPS - FURNISHED AND INSTALLED	1	LS	2,350.85		2,350.85	-	-	-	-	-
CO 8.1	Hydro Excavate Existing Utilities (East Side of Hughes Rd)	15	DAYS	3,850.00		57,750.00	15.00	-	-	15.00	57,750.00
New Pricing	Culvert Extension on Eastside	1	LS	92,931.50		92,931.50	-	1.00	92,931.50	1.00	92,931.50
subtotal						248,000.33	331.00	1.00	92,931.50	332.00	211,357.48
TOTAL BASE BID WITH CHANGE ORDERS						6,075,630.55	121,134.28	13,717.41	692,886.67	134,851.69	3,509,716.80
3-1	CRUSHED AGGREGATE BASE COURSE, TYPE B, PLANT MIXED,	4,690	SQ YD	10.50		49,245.00	-	-	-	-	-
3-2	BITUMINOUS TREATMENT A	4,690	SQ YD	2.00		9,380.00	-	-	-	-	-
3-3	SUPERPAVE BITUMINOUS CONCRETE WEARING SURFACE	607	TON	125.00		75,875.00	-	-	-	-	-
3-4	CONCRETE CURB RAMP WITH TRUNCATED DOMES, 6" THICK	46	EACH	1,600.00	2,150.00	73,600.00	14.00	-	-	14.00	22,400.00
TOTAL ALTERNATE #3						208,100.00	14.00	-	-	14.00	22,400.00
167	STORED MATERIALS						124,516.51	-	-		124,516.51
TOTAL BASE BID/CHANGE ORDERS, ALTERNATE 3, AND STORED MATERIALS:						6,283,730.65		692,886.67		3,656,833.31	

Contractor: Carcel & G Construction, LLC

	UNITS OF	MATERIAL	UNITS OF	MATERIAL	UNITS OF MATERIAL INSTALLED THIS PERIOD	MATERIAL	UNITS OF	MATERIAL	COST
ITEM	ON SITE PREVIOUS PERIOD	ON SITE-EXTENDED PREVIOUS PERIOD	RECEIVED ON SITE THIS PERIOD	RECEIVED-EXTENDED THIS PERIOD		INSTALLED-EXTENDED THIS PERIOD	MATERIAL ON SITE THIS PERIOD	ON SITE-EXTENDED THIS PERIOD	PER UNIT
ALLOY STEEL HANDRAIL, INSTALLED ON RETAINING WALL, COMPLETE IN PLACE TO INCLUDE SURFACE PREPARATION.	130.000	\$ 4,333.33	0.000	\$ -	0.000	\$ -	130.000	\$ 4,333.33	\$ 33.33
Shoals Elec - Temple Invoice Video Detection System	1.000	\$ 29,523.52	0.000	\$ -	0.000	\$ -	1.000	\$ 29,523.52	\$ 29,523.52
Shoals Elec - Inline Elec Invoice Valmont CB 16 VOOM370-60+12S-GV-HH-AB Valmont CB16 Y009370-70+12S-GV-HH-AB Valmont CB16 Y009370-70-70+12S-GV-HH-AB	1.000	\$ 90,659.66	0.000	\$ -	0.000	\$ -	1.000	\$ 90,659.66	\$ 90,659.66
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TOTALS		\$ 124,616.61		\$ -		\$ -		\$ 124,616.61	

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

Item B.

Purchase Order
No. 2021-00001146

DATE 07/27/2021

VENDOR 3117 - Morell Engineering, Inc.*

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

NON-NEGOTIABLE

Contact

Morell Engineering, Inc.
711 East Hobbs Street
ATHENS, AL 35611



DELIVER BY
SHIP VIA
FREIGHT TERMS
PAGE 1 of 1

REFERENCE # Res. 2021-197-R

QUANTITY	UNIT	DESCRIPTION	STATUS	UNIT COST	TOTAL COST
1.0000	Each	*Item - CBMPP Prep for ADEM Permit 39-150-000-2955-39 - Project - Middle School Road (Garner - Shorter - Life-Way) 2,000.00 20 028	Complete	2,000.0000	\$2,000.00
20.0000	Each	*Item - Inspections (monthly, after significant rain event) & Monitoring 39-150-000-2955-39 - Project - Middle School Road (Garner - Shorter - Life-Way) 2,000.00 20 028	Open	100.0000	\$2,000.00
Payment #6 Invoice #20180 \$200.00					
TOTAL DUE					\$4,000.00

Purchasing Agent Signature

Special Instructions

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 Council Agenda 10/10/22




City of Madison
100 Hughes Road
Madison, AL 35758

Invoice

Date	Invoice #
8/31/2022	20180

PO #: 2021-1146

Project	Job Number	Due Date
Garner Street Extension	21-0241	9/30/2022

Date of Service	Description	Hours/Qty	Rate	Amount
8/4/2022	ADEM Inspection	1	100.00	100.00
8/19/2022	ADEM Inspection	1	100.00	100.00
<p style="text-align: center;">Approved to Pay</p>  <p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">SEP 15 2022</p> <p style="text-align: center;">CITY OF MADISON ENGINEERING DEPARTMENT</p>				

We accept Visa, Mastercard, Discover and American Express.

Total \$200.00

****Please note there will be a 2.5% Convenience Fee added to all invoices paid with a debit or credit card.****

Payments/Credits \$0.00

Balance Due \$200.00

Thank you for your business.

Name as it appears on card: _____
Billing Address: _____
Account Number: _____
Expiration Date: _____ Card Code: _____
Amount: _____
Signature: _____

711 East Hobbs Street Athens, AL 35611 256-867-4957

City Council Agenda 10/10/22

RESOLUTION NO. 2022-272-R

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

Quantity	Description
2	Office desk chairs

;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 10th day of October 2022.

Greg Shaw, City Council President
 City of Madison, Alabama

ATTEST:

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

APPROVED this 10th day of October, 2022.

Paul Finley, Mayor
 City of Madison, Alabama

RESOLUTION NO. 2022-271-R**A RESOLUTION APPROVING RESTAURANT RETAIL LIQUOR
LICENSE FOR PHOENIX SENIOR LIVING, LLC**

WHEREAS, the Alabama Alcoholic Beverage Control Board (“ABC”) has requested the consent of the governing body of the City of Madison, Alabama, prior to issuing a restaurant retail liquor license to Phoenix Senior Living, LLC, doing business as Madison Crossing, which has applied for said license for its location at 11260 County Line Road; and

WHEREAS, the Revenue Director has received written approval for the application of Phoenix Senior Living, LLC from the Madison Police Department, which is required by Chapter 4 of the *Code of Ordinances, City of Madison, Alabama*;

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that the City Council hereby consents to the issuance of an ABC restaurant retail liquor license to Phoenix Senior Living, LLC for its 11260 County Line Road location and that the Revenue Director is authorized to forward proof of the same to the ABC; and

BE IT FURTHER RESOLVED that upon the ABC’s grant of the license, as well as the approval of both the Building and Fire Departments, the Revenue Director is authorized to issue a City restaurant retail liquor license to Phoenix Senior Living LLC doing business as Madison Crossing.

READ, PASSED, AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 10 day of October 2022.

Greg Shaw, City Council President
City of Madison, Alabama

ATTEST:

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

APPROVED this 10th day of October 2022.

Paul Finley, Mayor
City of Madison, Alabama



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

Date: September 23, 2022

To: Mayor & City Council

From: Cameron Grounds, CPA, CMRO
Revenue Officer, Revenue Department

Subject: Phoenix Senior Living, LLC
DBA: Madison Crossings
Restaurant Retail Liquor License

Please find attached a copy of the checklist for Phoenix Senior Living, LLC, doing business as Madison Crossings, in regard to their application for a Restaurant Retail Liquor License for their location at 11260 County Line Road.

The reason that this business is applying for a Restaurant Retail Liquor License at this time is because this is a new request for alcoholic beverages for this business.

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

If there are any questions, do not hesitate to call me at (256) 772-5654.

City of Madison, Alabama

Checklist for Beer/Wine/Liquor License

☒ ON PREMISE ☐ OFF PREMISE
☐ BEER ☐ WINE ☒ LIQUOR

Owner Name: Phoenix Senior Living, LLCBusiness Name: Madison CrossingsBusiness Location: 11260 County Line Road, Madison, Alabama 35756Mailing Address: 10933 Crabapple Road, Roswell, GA 30075Phone: 678-214-2900

APPLICATION FEE:

Date Paid: Sept. 13th, 2022 Amount: 100.00 Receipt #: _____Copy of Lease: Yes Incorporation Papers: Yes

POLICE DEPARTMENT APPROVAL:

Letter Sent: September 13th, 2022Background Check: Approved ✓ Disapproved _____Check Completed By: Betty Ringer Title ID SecretaryDate Completed: 9-19-22

BUILDING DEPARTMENT APPROVAL:

Letter Sent: September 13th, 2022Inspection: Approved ✓ Disapproved _____Inspection Completed By: John J. Ringer Title Building InspectorDate Completed: 9/19/2022

FIRE DEPARTMENT APPROVAL:

Letter Sent: September 13th, 2022Inspection: Approved X Disapproved _____Inspection Completed By: Scott Ringer Title DFMDate Completed: 9-23-22

ADVERTISEMENT/DATE SET FOR PUBLIC HEARING:Memo Sent to City Clerk On: September 13th, 2022Date Placed: September 21st, 2022 Newspaper: Madison RecordPublication Fee Paid: \$184.00Date Paid: September 13th, 2022 Receipt #: _____Date of Public Hearing: October 10th, 2022

Approved: _____

Denied: _____

STATE ALCOHOL CONTROL BOARD LETTER:

Letter Sent: _____

Mailed to Applicant: _____

CITY LICENSE:

Issuance Date: _____

By: _____

License #: _____



RESOLUTION NO. 2022-255-R**A RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE AND
EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH OHM
ADVISORS**

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 OHM Advisors for professional engineering consulting services, said Agreement to be substantially similar in purpose, intent, and composition to that certain document attached hereto and identified as "Proposal for Professional Services for Segers Road and Maecille Drive," 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 OHM Advisors in a total amount not to exceed one hundred twenty-five thousand and five hundred dollars (\$125,500) 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 10th day of October 2022.

Greg Shaw, City Council President
City of Madison, Alabama

ATTEST:

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

APPROVED this 10th day of October 2022.

Paul Finley, Mayor

City of Madison, Alabama



August 1, 2022

Mr. Michael Johnson, PE
City Engineer
City of Madison
100 Hughes Road
Madison, AL 35758

RE: Proposal for Civil Professional Services for Segers Road and Maecille Drive Intersection Improvements

Dear Mr. Johnson,

OHM Advisors (OHM) appreciates the opportunity to submit this proposal for professional services related to the above referenced project. This letter presents our understanding of the project, scope of services, schedule, fees, and "Terms and Conditions."

Project Understanding

Design: Based on our recent discussions, we understand that City of Madison (the City) is seeking professional services regarding the intersection of Segers Road and Maecille Drive with the anticipation of the Halsey Farms Residential and School Development. We understand OHM's portion of the improvements to include reconstructing Maecille Drive to a full 24' wide two-way road meeting a 40mph design speed from Segers Road to the east approximately 1250' to the proposed development property line. Furthermore, improvements to the intersection of Segers Road and Maecille Drive include adding a westbound left turn lane on Maecille Drive, a northbound right turn lane on Segers Road, and a southbound left turn lane on Segers Road. In addition to the widening on Segers Road, it is expected that there are vertical curve and sight distance deficiencies near the intersection (south of Chesnut Heath Court) that will need to be addressed by changing the profile of Segers Road. It is not anticipated that vertical curve changes will be made north of Chesnut Heath Court.

Pedestrian facilities are expected to be included along Maecille Drive along one or both sides of the road to connect the sidewalk on the west side of Segers Road to the new development. A pedestrian crossing will also be needed to cross Segers Road. Because there is no planned signal and Segers Road is a high-speed road (45mph posted speed), we expect that one or more pedestrian safety features will be needed for this pedestrian crossing. OHM's traffic and signal designers will do analysis and design of appropriate safety features including high visibility signing and striping, a pedestrian refuge island on the southside of the intersection, and/or a Rectangular Rapid-Flashing Beacon (RRFB). If additional safety measures are required OHM will provide an Amendment to the Letter Proposal outlining the specific Scope of Services to be added.

We understand the goal of the project is to improve traffic flow and safety of the intersection with the anticipation of the new development and special care is given to pedestrian safety with the addition of the sidewalks and crosswalk. We understand the City is using local funds for the project and will not require funding coordination with other agencies.

Preliminary Traffic Analysis The proposed turn lanes on Segers Road at Maecille Drive may impact the existing northbound left turn lane to Chesnut Heath Court just north of the intersection. Using a combination of the provided Halsey Farms Residential & School Development Traffic Impact Analysis and the modeled traffic flow on Chesnut Heath Court accessing the residential subdivision, OHM's traffic engineers will conduct a traffic analysis of these two intersections to confirm the design outlined in the project understanding above or propose alternative options if the operation of the intersections will be severely impaired. For the purposes of this proposal, the traffic analysis is expected to align with design understanding above, and any major design changes will be evaluated with the City and an Amendment with additional scope will be provided at that time by OHM.

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Survey: An 80' wide full topographical survey along 1250' of Macelle Drive and 800' of Segers Road is included with the contract, as well as a boundary survey of all parcels adjacent to the proposed road improvements. All survey work will be completed by OHM's survey team.

Geotechnical: We understand geotechnical analysis and a report will be necessary to complete the design. A sub-consultant contracted by OHM will be used to provide these services. We anticipate the need for twelve (12) soil borings including four (4) pavement cores within the limits of the existing roads. The soil borings will be used to obtain existing thicknesses of pavement and base stone as well as existing soils in areas of widening. Based on the soil borings, the subconsultant will provide a pavement recommendation to use in design.

Roadway Drainage: The existing intersection has open shoulder and ditches. Developing a drainage plan within our project limits and maintaining the existing drainage patterns in the area will be part of this contract. We expect to protect and utilize the existing ditches where they are not impacted by the new road geometry and either utilize curb and gutter with underground storm sewer or cut new ditches with open shoulder where drainage is impacted.

Wetlands: Per our discussion with the City and a brief review of a national online wetland mapping software, it appears there are no wetlands within the vicinity of the intersection that would be impacted by this project.

Right-of-Way (ROW): Based on GIS parcel maps the existing ROW width of Macelle Drive is shown as 40' and Segers Road as 50'. We understand that the proposed ROW of Macelle Drive is going to be 80' wide. Based on the additional lanes on Segers Road along with potential shoulder and ditches it is expected that ROW acquisition will also be needed on one or both side of Segers Road as well. OHM will use the boundary survey to determine exact ROW impacts of the proposed road improvements. OHM will work with the City to develop a ROW acquisition table and exhibits for affected parcels; we understand that the City will be responsible for the ROW acquisition. If additional help is needed from OHM to assist with appraisals and acquisition, OHM can add a ROW subconsultant with additional scope as part of an Addendum to this contract.

Utility Coordination: We understand that several key utilities are located within the vicinity of the proposed work. There is a utility pole on the west side of Segers Road directly across from Macelle drive that appears to be within the proposed footprint of the road widening and will need to be relocated. Additionally, there is a critical NAGD high pressure 6" steel gas main that runs along Segers Road on the east side, several AT&T underground cable and fiber lines including a main FIBER PFP and a LCWA 8" water line running along the west side of Segers Road, and a LCWSA 6" water line and an AT&T copper cable running east/west along Macelle Drive. All the underground utilities have potential impacts due to this project with the widening and the expected vertical curve improvements of both roadways. OHM will coordinate with known affected utility companies for potential impacts to reach resolutions that minimize utility impacts while still achieving the proposed roadway improvements. Unavoidable relocations will be coordinated with the affected utility companies.

OHM will hold one utility coordination meeting with the City and the known affected utility companies to hear concerns and discuss design alternatives and impacts. Follow up correspondence with affected utilities will be maintained providing plans and information for them to determine how to relocate necessary facilities. Additionally, OHM will coordinate with utility companies' efforts to bring new utilities to the proposed Residential and School development to identify and help resolve potential conflicts with the proposed road improvements. AT&T Fiber is the only known proposed utility at this time.

Utility Location and Hydro-Excavation: We understand that an important part of utility coordination is being able to accurately identify the locations of critical utilities and that hydro-excavation for locating the depth of utilities is part of this contract. A subconsultant contracted by OHM will perform the hydro-excavation based on the horizontal locations provided by utility companies to determine the vertical location of the known critical utilities. This information will be used to evaluate potential impacts to utilities due to the road improvements.

Permitting: We understand that city and county permits will be required for the proposed work. With land disturbance associated with the project likely over one acre, the project will need to apply for coverage under the NPDES construction stormwater general permit. We understand a Notice of Intent and Construction Best Management Practices Plan, prepared by a certified Qualified Credentialed Professional, will need to be prepared for this project.

Traffic Control: We understand the City's desire to maintain traffic during construction as much as possible. OHM will provide traffic control alternatives comparing potential maintenance of traffic schemes with tradeoffs including amount of temporary pavement needed and estimated traffic control costs, right-of-way impacts, utility impacts, additional time for contractor to complete work, and effect on contractor prices with more phases. Due to the potential to change the Segers Road profile by

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several feet due to improving vertical curvature and sight distance, maintaining traffic may be difficult at certain stages of construction. OHM will develop traffic control plans and/or detour routes for whichever alternative is chosen. We will work with the City to prepare a plan that seeks to minimize disturbance to neighboring residents while being feasible and cost effective. Limiting construction to summer months when school is out is one potential solution to avoid strain on school bus routes and families.

Scope of Services –Design Services and Deliverables

Task 1 – Topographical and Boundary Survey

OHM will perform full topographical survey for the anticipated limits of the project. Anticipated limits of the project include full survey within the proposed 80' wide right-of-way on Maecille Drive from Segers Road going east 1250' to the property line where the developer's portion begins. On Segers Road, an 80' wide topographical survey will be conducted for 800' to accommodate the design of the proposed widening due to the addition of the turn lanes at the Maecille Drive intersection and the sight distance and vertical curve improvements needed south of Chesnut Heath Court.

Additionally, OHM will perform a boundary survey of the properties abutting the road improvements on Segers Road and Maecille Drive.

Task 2 – Traffic Analysis

OHM's traffic team will complete a full traffic analysis of the proposed widening and turn lane additions to Segers Road in relation to the Stillwater Cove subdivision and the proximity of Chesnut Heath Court. The analysis will include traffic modeling to understand the expected queue lengths and delays for vehicles trying to access Maecille Drive and Chesnut Heath Court from Segers Road. OHM will prepare a summary of the findings and either confirm the proposed improvements outlined in the Traffic Impact Analysis or propose an alternative solution for the City to consider if the findings are unsatisfactory.

Task 2 Deliverables:

- *Traffic Memo with Attachments*

Task 3 – 30% Roadway Design Plans

OHM will prepare preliminary roadway plans at a 30% design level for review and comment by the City. Design elements completed at this stage include geometry of proposed roadway improvements, horizontal alignments, profiles, and typical sections of the roadway. Plans will be AutoCAD generated consisting of the following sheets:

- Cover Sheet
 - Project Title, Contact Information, Sheet Index, Location Map
- General Notes and Legend
 - Preliminary project wide general notes, graphic legend, and abbreviations.
- Typical Sections
 - Depicting elements of the roadway corridor
- Existing Conditions and Removal
 - Existing conditions (survey) and identification of all items to be demolished/removed.
- Construction Plan/Profile Sheets
 - Plan view showing horizontal alignments and layout, identification of above-grade site construction items, proposed right-of-way, preliminary drainage layout, preliminary below-grade utility layout at top of sheet.
 - Profile showing vertical layout control of roadway centerline and edges of roadway, showing existing and preliminary proposed utilities and drainage structures at bottom of sheet.

Task 3 Deliverables:

- *30% Roadway Design Plans at 20 scale*
 - *Two 11"x17" size plan sets*
 - *AutoCAD and PDF formats*



Task 4 – 80% Roadway Design Plans

After review by the City of the 30% plans, OHM will prepare roadway design plans at an 80% design level. Comments from the City's review will be incorporated into the design, and various elements of the design will progress. A complete 3D model of the corridor will be developed in AutoCAD-Civil3D. Roadway Design Plans will be AutoCAD generated plans consisting of the following sheets:

- Cover Sheet
 - Project Title, Contact Information, Sheet Index, Location Map.
- General Notes and Legend
 - Applicable project wide general notes, graphic legend, and abbreviations.
- Summary of Quantities
 - Table depicting project quantities based on ALDOT unique pay items.
- Typical Sections
 - Depicting elements of the roadway corridor, including pavement design.
- Roadway Details
 - Roadway related construction details
- Key Map Sheet
 - Includes page numbers of sheet for each section.
- Existing Conditions and Removal
 - Existing conditions (survey) and identification of items to be demolished/removed.
- Construction Plan/Profile Sheets
 - Plan view showing horizontal layout control and identification of above-grade site construction items, proposed right-of-way, stormwater collection and conveyance systems, below-grade utilities at top of sheet.
 - Profile view showing vertical layout control of roadway centerline and edges of roadway, showing existing and proposed utilities and drainage structures at bottom of sheet.
- Erosion Control
 - Design of erosion prevention and sediment control BMP's to meet applicable local and state regulations. Depiction of project BMPs and proposed and existing topographic contour lines.
- Traffic Control and Detour Plan
 - Plan sheets showing construction staging and/or detour routes around the closed intersection during construction.
- Signing and Striping Plans
 - Plan sheets showing road signs and pavement markings including pay items and quantities.
 - Sign summary table on sheets.
- Cross-Section Sheets
 - Depiction of roadway cross-sections along designed roadways at 50-ft intervals, at center line of all driveways and side streets, and locations where ROW limits change.
 - Includes elevations at road centerline, edge of pavement/back of curb, ditch flow lines, and tie in locations.

Additionally, an engineer's estimate will be completed using project quantities and current ALDOT unit-bid prices. OHM will support the City with the ROW acquisition process by preparing a ROW acquisition table and exhibits for up to 10 parcels (based on the GIS plat maps of parcels adjacent to the proposed road improvements). OHM will conduct utility coordination with utilities by distributing plans and holding one utility coordination meeting.

Task 4 Deliverables:

- 80% Roadway Design Plans
 - Two 11"x17" size plan sets at 20 scale
 - AutoCAD and PDF formats
 - Engineer's estimate
 - ROW Acquisition Table and Exhibits for up to 10 parcels

Task 5 – Final Roadway Design Plans

After review by the City of the 80% plans, OHM will prepare roadway design plans at a 100% design level. Comments from the City's review will be incorporated into the design, and final elements of the design will be completed. The plan

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sheets listed above will be revised as necessary, and detailed grading sheets depicting detailed grades for ditches, driveways, ADA compliance, and roadway construction will be developed. Signing and striping plans will be completed. Additionally, a final engineer's estimate will be completed using project quantities and current ALDOT unit-bid prices, and any project specific specifications will be written and included in the construction bid package. Finally, OHM will assist the City by coordinating with public agencies to obtain city, county, and stormwater permits for the proposed work.

Task 5 Deliverables:

- *Final Roadway Design Plans*
 - *22"x34" size plan sheets at 20 scale*
 - *AutoCAD base files and final plans PDF*
 - *ADEM and CBMPP Permit submittal*
 - *Final Engineer's estimate*
 - *Project-specific specifications*

Task 6 – Geotech

A geotechnical investigation will be conducted and resulting geotechnical report will be prepared by a subconsultant contracted by OHM advisors. The geotechnical investigation will include twelve (12) soil borings including four (4) existing pavement cores and analysis along with a pavement section recommendation.

Task 6 Deliverables:

- *Geotechnical Report*

Task 7 – Hydro-Excavation

A hydro-excavation subconsultant will assist in locating the vertical depth of critical underground utilities where detailed vertical locations are not known but are needed to determine potential impacts due to the widening and vertical curve improvements. The subconsultant estimates being able to do 5 to 10 potholes per day no greater than 9' deep. Two days of Hydro Excavation is estimated at this time, but additional days may be added by request of the City.

Assumptions and Excluded Services

- Geometric design changes or corridor improvements not stated in the project understanding above are excluded.
- Construction Administration Services (shop drawings, RFIs, Punchlist, etc.) are excluded.
- Construction Inspection services are excluded.
- Bidding Administration Services are excluded.
- Wetland and environmental studies and permits are excluded.
- Archaeological / cultural resource reviews are excluded.
- Utility relocation or improvement design such as water main and sanitary sewer is excluded.
- Photometrics and lighting design are excluded.
- Landscape design and irrigation design are excluded.
- Right-of-way acquisition assistance beyond parcel exhibits is excluded.
- Construction staking is excluded.
- Construction materials testing is excluded.
- Permit review fees are excluded.
- Other services not explicitly stated in this contract are excluded.

Note that some of the services listed above may be added under this contract at the request of the City. If requested, OHM will provide an Amendment to the Letter Proposal outlining the specific Scope of Services to be added. Compensation and schedule for the Additional Services will be detailed within the Amendment.

Schedule

The Consultant is available to commence with this assignment upon approval and execution of this Letter Proposal or issuance of a purchase order. The below schedule represents approximate durations of tasks. Tasks performed by subconsultants will overlap OHM's tasks. Final design plans are expected to be delivered to the City in Spring/Summer of 2023 with construction expected to take place Spring/Summer of 2024. OHM is committed to meeting this timeline contingent upon utility relocation, ROW acquisition, or other unforeseen delays.

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DESCRIPTION	OHM TASK	DURATION
Survey	OHM Task 1	4 weeks
Traffic Analysis	OHM Task 2	3 weeks
30% Roadway Design Plans	OHM Task 3	4 weeks
80% Roadway Design Plans	OHM Task 4	8 weeks
Final Roadway Design Plans	OHM Task 5	4 weeks
Geotech	OHM Task 6	4 weeks
Hydro Excavation	OHM Task 7	4 weeks

Compensation

OHM will perform services on a lump sum basis (less Task 7 – Hydro-Excavation) per the table below. OHM will notify the City in advance if we become aware of unforeseen conditions impacting the estimated cost of services. OHM will not exceed the estimates without the Client's prior approval.

Task	Description	Fee Type	Fee Estimate
1	Survey	Lump sum	\$ 17,000
3	30% Roadway Design Plans & Traffic Analysis	Lump sum	\$ 27,000
4	80% Roadway Design Plans	Lump sum	\$ 47,500
5	Final Roadway Design Plans	Lump sum	\$ 18,500
6	Geotech	Lump sum	\$ 9,000
7	Hydro-Excavation	Daily, Time and Materials *	\$ 6,500
Subtotal Fee Lump Sum			\$ 119,000
Subtotal Fee Daily, Time and Materials			\$ 6,500
Total Fee Budget			\$ 125,500

* Hydro-Excavation Cost per day is \$3,250. Estimated 2 Days.

COVID-19 Disclaimer


As we submit this proposal, the world is in the midst of the COVID-19 health crisis, and we believe there is an increased risk for potential schedule impacts. The Schedule is based on operating in a normal environment. Our team, like the Client, is adjusting our workflow logistics and our teams are working remotely in an effective manner. However, be aware that schedule impacts from elements such as field services delays, required resource agencies, and key staff illness that neither OHM Advisors nor the Client have control over are more likely in the current environment. We will communicate proactively, clearly identify project issues as they arise, and work with the Client's staff to develop a plan to deal with unforeseen issues.

Authorization and Acceptance

If this proposal is acceptable to you, your signature on this letter and initials on the contract terms and conditions will serve as our authorization to proceed. If you have any questions or require additional information, please do not hesitate to contact me by email at joshua.scheenstra@ohm-advisors.com or by telephone at (615) 610-5224.

Thank you for giving us the opportunity to be of service. We look forward to working with you on this project. This proposal is valid for 30 days from the date of this letter.

Orchard, Hiltz, & McClimment, Inc.
CONSULTANT



Joshua Scheenstra, PE

Project Manager

08/01/2022

City of Madison, Alabama
CLIENT

(Signature) _____
(Name) Paul Finley
(Title) Mayor
(Date) _____

Attachments: Terms and Conditions

OHM Advisors®
209 10TH AVENUE SOUTH, SUITE 154
NASHVILLE, TN 37203

T 615-649-5264

OHM-Advisors.com

TERMS & CONDITIONS

1. **THE AGREEMENT.** These Terms and Conditions and the attached Proposal or Scope of Services, upon acceptance by CLIENT, shall constitute the entire Agreement between Orchard, Hiltz & McCliment, Inc. (OHM ADVISORS), a registered Alabama firm, and CLIENT. OHM ADVISORS and CLIENT may be referred to individually as a Party or collectively as Parties. This Agreement supersedes all prior negotiations or agreements and may be amended only by written agreement signed by both Parties.
2. **CLIENT RESPONSIBILITIES.** CLIENT, at no cost, shall:
 - a. Provide access to the project site to allow timely performance of the services.
 - b. Provide all information in CLIENT'S possession as required by OHM ADVISORS to perform the services.
 - c. Designate a person to act as CLIENT'S representative who shall transmit instructions, receive information, define CLIENT policies, and have the authority to make decisions related to services under this Agreement.
3. **PROJECT INFORMATION.** OHM ADVISORS shall be entitled to rely on the accuracy and completeness of services and information furnished by CLIENT, other design professionals, or consultants contracted directly to CLIENT.
4. **PERIOD OF SERVICE.** The services shall be completed within the time specified in the Proposal or Scope of Services, or if no time is specified, within a reasonable amount of time. OHM ADVISORS shall not be liable to CLIENT for any loss or damage arising out of any failure or delay in rendering services pursuant to this Agreement that arise out of circumstances that are beyond the control of OHM ADVISORS.
5. **COMPENSATION.** CLIENT shall pay OHM ADVISORS for services performed in accordance with the method of payment, as stated in the Proposal or Scope of Services. CLIENT shall pay OHM ADVISORS for reimbursable expenses for subconsultant services, equipment rental, or other special project related items at a rate of 1.15 times the invoice amount.
6. **TERMS OF PAYMENT.** Invoices shall be submitted to the CLIENT each month for services performed during the preceding period. CLIENT shall pay the full amount of the invoice within thirty days of the invoice date. If payment is not made within thirty days, the amount due to OHM ADVISORS shall include a service fee at the rate of one (1%) percent per month from said thirtieth day.
7. **STANDARD OF CARE.** OHM ADVISORS shall perform their services under this Agreement in a manner consistent with the professional skill and care ordinarily provided by similar professionals practicing in the same or similar locality under the same or similar conditions.
8. **RESTRICTION OF REMEDIES.** OHM ADVISORS is responsible for the work of its employees while they are engaged on OHM ADVISORS' projects. As such, and in order to minimize legal costs and fees related to any dispute, CLIENT agrees to restrict any and all remedies it may have by reason of OHM ADVISORS' breach of this Agreement or negligence in the performance of services under this Agreement, be they in contract, tort, or otherwise, to OHM ADVISORS, and to waive any claims against individual employees.
9. **LIMIT OF LIABILITY.** To the fullest extent permitted by law, CLIENT agrees that, notwithstanding any other provision in this Agreement, the total liability in the aggregate, of OHM ADVISORS to CLIENT, or anyone claiming under CLIENT, for any claims, losses, damages or costs whatsoever arising out of, resulting from, or in any way related to this Agreement or the services provided by OHM ADVISORS pursuant to this Agreement, be limited to \$25,000 or OHM ADVISORS fee, whichever is greater, and irrespective of whether the claim sounds in breach of contract, tort, or otherwise.
10. **ASSIGNMENT.** Neither Party to this Agreement shall transfer, sublet, or assign any duties, rights under or interest in this Agreement without the prior written consent of the other Party.
11. **NO WAIVER.** Failure of either Party to enforce, at anytime, the provisions of this Agreement shall not constitute a waiver of such provisions or the right of either Party at any time to avail themselves of such remedies as either may have for any breach of such provisions.
12. **GOVERNING LAW.** The laws of the State of Alabama will govern the validity of this Agreement, its interpretation and performance.
13. **INSTRUMENTS OF SERVICE.** OHM ADVISORS shall retain ownership of all reports, drawings, plans, specifications, electronic data and files, and other documents (Documents) prepared by OHM ADVISORS as Instruments of Service. OHM ADVISORS shall retain all common law, statutory and other reserved rights, including, without limitation, all copyrights thereto. CLIENT, upon payment in full for OHM's services, shall have an irrevocable license to use OHM's Instruments of Service for or in conjunction with repairs, alterations or maintenance to the project involved but for no other purpose. CLIENT shall not reuse or make any modifications to the Documents without prior written authorization by OHM ADVISORS. In accepting and utilizing any Documents or other data on any electronic media provided by OHM ADVISORS, CLIENT agrees they will perform acceptance tests or procedures on the data within 30 days of receipt of the file.
14. **CERTIFICATIONS.** OHM ADVISORS shall have 14 days to review proposed language prior to the requested dates of execution. OHM ADVISORS shall not be required to execute certificates to which it has a reasonable objection, or that would require knowledge, services, or responsibilities beyond the scope of this Agreement, nor shall any certificates be construed as a warranty or guarantee by OHM ADVISORS.
15. **TERMINATION.** Either Party may at any time terminate this Agreement upon giving the other Party 7 calendar days prior written notice. CLIENT shall within 45 days of termination pay OHM ADVISORS for all services rendered and all costs incurred up to the date of termination in accordance with compensation provisions in this Agreement.
16. **RIGHT TO SUSPEND SERVICES.** In the event CLIENT fails to pay OHM ADVISORS the amount shown on any invoice within 45 days of the date of the invoice, OHM ADVISORS may, after giving 7 days' notice to CLIENT, suspend its services until payment in full for all services and expenses is received.

17. **OPINIONS OF PROBABLE COST.** OHM ADVISORS preparation of Opinions of Probable Cost represents OHM ADVISORS' best judgment as a design professional familiar with the industry. CLIENT recognizes that OHM ADVISORS has no control over costs of labor, equipment, materials, or a contractor's pricing. OHM ADVISORS makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual cost.
18. **JOB SITE SAFETY.** Neither the professional activities of OHM ADVISORS, nor the presence of OHM ADVISORS or our employees and subconsultants at a construction site shall relieve the Contractor or any other entity of their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequences, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and the health or safety precautions required by any regulatory agency. OHM ADVISORS has no authority to exercise any control over any construction contractor or any other entity or their employees in connection with their work or any health or safety precautions.
19. **CONTRACTOR SUBMITTALS.** If included in the services to be provided, OHM ADVISORS shall review the contractor's submittals such as shop drawings, product data, and samples for the limited purpose of checking for conformance with information given and the design concept expressed in the construction documents issued by OHM ADVISORS. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the contractor's responsibility. OHM ADVISORS review shall not constitute approval of safety precautions or, unless otherwise specifically stated by OHM ADVISORS, of any construction means, methods, techniques, sequences or procedures. OHM ADVISORS approval of a specific item shall not indicate approval of an assembly of which the item is a component.
20. **CONSTRUCTION OBSERVATION.** If requested, OHM ADVISORS shall visit the project construction site to generally observe the construction work and answer questions that CLIENT may have. OHM ADVISORS shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the construction work, or to determine whether the construction work is being constructed in accordance with the Contract Documents.
21. **HAZARDOUS MATERIALS.** As used in this Agreement, the term hazardous materials shall mean any substances, including without limitation asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site. Both Parties acknowledge that OHM ADVISORS' Scope of Services does not include any services related to the presence of any hazardous or toxic materials. In the event OHM ADVISORS or any other person or entity involved in the project encounters any hazardous or toxic materials, or should it become known to OHM ADVISORS that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of OHM ADVISORS' services, OHM ADVISORS may, at its sole option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until CLIENT retains appropriate qualified consultants and/or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations. CLIENT agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless OHM ADVISORS, its officers, partners, employees and subconsultants (collectively, OHM ADVISORS) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability, regulatory or any other cause of action, except for the sole negligence or willful misconduct of OHM ADVISORS.
22. **WAIVER OF CONSEQUENTIAL DAMAGES.** The Parties waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either Party's termination of this Agreement.
23. **WAIVER OF SUBROGATION.** The Parties waive all rights against each other and any of their contractors, subcontractors, consultants, agents, and employees, each of the other, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to a written contract or other property insurance applicable to the construction work.
24. **THIRD PARTIES.** Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either CLIENT or OHM ADVISORS.
25. **CODE REVIEW/ACCESSIBILITY.** In providing its services under this Agreement, OHM ADVISORS may have to interpret federal and or state laws, codes, ordinances, regulations and/or statutes. CLIENT understands and agrees that these may be subject to different and possibly contradictory interpretations by relevant governmental officials charged with interpreting same and furthermore understands and agrees that OHM ADVISORS does not warrant or guarantee that their interpretation will be consistent with the interpretation of the relevant governmental officials. OHM ADVISORS shall not be liable for unreasonable or unforeseeable interpretation of federal and or state laws, codes, ordinances, regulations and/or statutes by governmental officials charged with interpreting same.
26. **DISPUTE RESOLUTION.** In an effort to resolve any conflicts that arise during the project or following the completion of the project, the Parties agree that all disputes between them arising out of or relating to this Agreement shall be submitted to nonbinding mediation, unless the Parties mutually agree otherwise, as a prerequisite to further legal proceedings. The Parties agree to share the mediator's fee and any filing fees equally, and the mediation shall be held in the place where the project is located, unless another location is mutually agreed upon.

RESOLUTION NO. 2022-256-R

**A RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE AND
EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-
HORN & ASSOCIATES, INC.**

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 Kimley-Horn & Associates, Inc. for professional engineering consulting services, said Agreement to be substantially similar in purpose, intent, and composition to that certain document attached hereto and identified as "Proposal for Professional Services" for traffic signal and sidewalk modification at the intersection of Wall-Triana and Gooch Lane 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 OHM Advisors in a total amount not to exceed seventy-eight thousand and thirty one dollars and eighty-one cents (\$78,031.81) 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 10th day of October 2022.

Greg Shaw, City Council President
City of Madison, Alabama

ATTEST:

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

APPROVED this 10th day of October 2022.

Paul Finley, Mayor

City of Madison, Alabama



August 31, 2022

Ms. Michelle Dunson
City of Madison – Engineering Department
 100 Hughes Road
 Madison, Alabama 35758

Re: **Proposal for Professional Services – Notification: 22-023**
 Traffic Signal and Sidewalk Modification
 Gooch Lane and Wall Triana Highway
 Madison, Alabama

Dear Ms. Dunson:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the **City of Madison** ("City" or "Client") for traffic engineering services at the intersection of Gooch Lane and Wall Triana Highway located in the City of Madison, Alabama.

PROJECT UNDERSTANDING

The Client desires to modify the existing traffic signal at the intersection of Gooch Lane and Wall Triana Highway. The Client is also looking to extend the sidewalk along Gooch Lane from Wall Triana Highway to Eastfield Drive. As part of this, the drainage along Gooch Lane will have to be analyzed with the sidewalk installation. Additionally, the Client would like to extend the sidewalk along Wall Triana Highway from Gooch Lane to Pebblebrook Circle. As part of this, the drainage (including creek ditch and culvert) will have to be analyzed with the sidewalk installation in order to make the connection. As a result, the Client would like to retain Kimley-Horn to provide engineering services as described in the scope of services below. Kimley-Horn will partner with Morell Engineering, Inc.

SCOPE OF SERVICES

Task 1 – Traffic Signal Design

\$15,000

Using the digital base mapping in AutoCAD format provided by the Client, Kimley-Horn will prepare plans for a full traffic signal design at the intersection of Gooch Lane and Wall Triana Highway. The existing signal will be fully replaced. The design will be based on the existing intersection geometrics with additional sidewalk improvements being made under this project. The proposed signal design will include the following: proposed mast arm pole and signal head locations, proposed cabinet location, proposed controller input file assignments, proposed phasing diagram, proposed vehicle detection locations using video detection cameras, proposed dual pre-emption using AI and Opticom, proposed conduit and junction box locations, proposed pedestrian push button and pedestrian displays, proposed sidewalk and ADA pedestrian ramp locations, proposed signage and sign details, proposed overhead street name sign measurements and details, proposed striping, and necessary notes.



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Kimley-Horn will develop construction plans consisting of the following sheets:

- Title Sheet
- Index
- Traffic Signal Legend
- Traffic Signal General Notes
- Summary of Quantities
- Traffic Signal Layout
- Traffic Control Plans
- Special Project Details (if applicable)

Traffic signal plans will be submitted at a scale of 1"=30'. Plans will be submitted to the City for review at the completion of the 60% and 90% plans. Kimley-Horn will respond to and address up to two (2) rounds of comments from the Client at each stage of review. Kimley-Horn will attend up to two (2) meetings with the Client during the design phase to discuss review comments.

Kimley-Horn will provide one (1) Opinion of Probable Construction Cost with the 90% plans and will address and incorporate one (1) round of comments from the City.

Following approval of the 90% plans, Kimley-Horn will complete preparation of final bid documents. A final Opinion of Probable Construction Cost will be submitted with final bid documents.

Task 2 – Geotechnical Drilling

\$4,450

Kimley-Horn's geotechnical subconsultant, Morell Engineering, Inc., will perform geotechnical drilling services for the planned traffic signal poles.

Geotechnical Field Services: Since it is not yet known how many new traffic signal poles will be constructed at the intersection, Morell Engineering will drill four (4) total borings, with one (1) boring being placed at each corner of the intersection. Each boring will be drilled to a depth of twenty-five (25) feet. However, borings may be terminated at shallower depths should auger refusal be encountered during drilling. Exploration of refusal materials, if encountered, is not included in our scope of services.

The boring locations will be located in the field by a member of Morell Engineering staff in the available space at each corner of the intersection so that overhead and underground utilities can be avoided. During drilling, Standard Penetration Tests (SPT) will be performed at standard sample intervals for each boring. Each of the samples will be visually classified by a member of the Morell Engineering staff in general accordance with ASTM D2488, *Standard Practice for Description and Identification of Soils (Visual-Manual Procedure)*.

Underground Utilities: Morell Engineering will contact the Alabama One Call service to locate public utilities within the project site prior to beginning any soil boring activities. While Morell Engineering will exercise standard care to avoid underground utilities, the project team will not be liable for damage to any unmarked or erroneously marked utilities. We note that Alabama One Call utility locators typically will mark utilities that are located within roadways and the roadway's right-of-way.



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Site Restoration: To minimize hazardous conditions to others, each bore hole will be backfilled upon completion using the auger cuttings, and the top approximately 24 inches of each bore hole will be grouted.

Report: The results of the geotechnical field exploration will be documented in a written report that will include a description of the subsurface conditions encountered at the soil test boring locations, including groundwater conditions observed in the bore holes during drilling. ***Long-term groundwater monitoring is not included in this proposal.***

Passive pressure diagrams will also be provided, based on the data obtained from each boring.

Task 3 – Mast Arm Pole Foundation Design

\$13,500

Kimley-Horn will provide structural design and construction details for the proposed mast arm foundation to be incorporated in the Traffic Signal Construction Plans. One (1) foundation detail will be prepared for the project utilizing current AASHTO LRFD Signs & Luminaires Design Criteria and the geotechnical information prepared by Morell Engineering. It is assumed that the foundation will be a single drilled caisson or spread footing based on the site conditions encountered. Kimley-Horn will respond to and address up to two (2) rounds of comments from the Client.

Kimley-Horn will provide limited structural construction phase services related to the mast arm and foundation shop drawings, up to three (3) shop drawing submittals have been assumed. Kimley-Horn will review and take appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for general conformance with the Contract Documents. Such review and action will not extend to means, methods, techniques, equipment choice and usage, schedules, or procedures of construction or to related safety programs. Any action in response to a shop drawing will not constitute a change in the Contract Documents, which can be changed only through the Change Orders.

Potential underground conflicts such as utilities, if encountered, will be avoided to facilitate foundation construction. In locations where underground conflicts appear to be a constraint, the project team will perform hydro excavation during the design phase (as part of Task 7) and will work with the designer to adjust pole locations based on those findings such as to avoid any underground conflicts. If determined to be necessary, hydro excavation should be authorized by the Client (as part of Task 7) and performed by the project team prior to finalizing pole locations and pole foundation design. In the event unforeseen underground conflicts such as boulders are discovered during construction, the project team can provide revised plans with new pole locations and foundation design as an additional service.



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Task 4 – Sidewalk and Drainage Design

\$32,000

Kimley-Horn will prepare full roadway construction plans for sidewalk and drainage improvements on Gooch Lane between Eastfield Drive and Wall Triana Highway, as well as on Wall Triana Highway from Gooch Lane to Pebblebrook Circle. Sidewalk is anticipated to be installed along the north side of Gooch Lane and the east side of Wall Triana Highway. Kimley-Horn will evaluate the need for curb and gutter and a closed drainage system along Gooch Lane. If it is determined that curb and gutter and a closed drainage system is needed, the design can be performed by Kimley-Horn as an additional service; the design of curb and gutter and a closed drainage system is not included in Task 4. Kimley-Horn will utilize the existing culvert along Wall Triana Highway, located approximately 350' north of Pebblebrook Circle, when installing the sidewalk along the east side of Wall Triana Highway. As part of the design, Kimley-Horn will verify there is still adequate separation between the sidewalk and the edge of pavement. If it is determined that a culvert extension is needed, Kimley-Horn can perform the design of the culvert extension as an additional service; the design of the culvert extension is not included in Task 4.

Kimley-Horn will develop roadway construction plans consisting of the following sheets (in addition to those listed in Task 1):

- General Notes
- Typical Sections
- Summary of Quantities
- Mainline Plans
- Driveway Profiles
- Cross Sections
- Utility Plans
- Signing and Marking Plans
- Special Project Details (if applicable)
- Erosion Control Standard Details

Kimley-Horn will coordinate with and distribute plans to affected utility owners for their review and verification of existing facilities identified through the provided topographic survey. Kimley-Horn will incorporate any utility owner markups received into the construction plans and redistribute to the utility owners for final verification.

Roadway construction plans will be submitted to the City for review at the completion of the 60% and 90% plans. Kimley-Horn will respond to and address up to two (2) rounds of comments from the Client at each stage of review. Kimley-Horn will attend up to two (2) meetings with the Client during the design phase to discuss review comments.

Kimley-Horn will provide one (1) Opinion of Probable Construction Cost with 90% plans and will address and incorporate one (1) round of comments from the City.

Following approval of the 90% plans, Kimley-Horn will complete preparation of final bid documents. A final Opinion of Probable Construction Cost will be submitted with final bid documents.



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It is not anticipated that Offsite Detour plans will be needed as part of this Task. If it is determined during design that the Offsite Detour plans are in fact needed, Kimley-Horn can complete the Offsite Detour plans as an additional service.

Task 5 – Right-of-Way Plats (as-needed, hourly) \$5,000

Kimley-Horn can provide right-of-way plats as needed following the development of the roadway construction plans. It is anticipated that right-of-way and easements will be required for the construction of the proposed sidewalk and drainage improvements on up to ten (10) parcels.

Kimley-Horn will develop right-of-way plats as needed for submission to the City and will incorporate and address up to two (2) rounds of comments.

Task 6 – ADEM NDPES Permitting (as-needed, hourly) \$5,000

If it is determined that the total land disturbance for the project is greater than 1-acre (but less than 5-acres), Kimley-Horn will prepare a site-specific Construction Best Management Practice Plan (CBMPP) and Notice of Intent (NOI) for coverage under the State of Alabama's NPDES Construction General Permit. The CBMPP will include a multi-phase erosion prevention and sediment control plan and other applicable erosion prevention and sediment control Best Management Practices (BMPs) for the site according to the Alabama Handbook for Erosion Control, Sediment Control, and Stormwater Management on Construction Sites and Urban Areas. The Client will be responsible for paying all necessary permit and application fees. Kimley-Horn will file the Notice-of-Intent (NOI) online to ADEM for review and coverage under the NPDES Construction General Permit. Kimley-Horn will address up to two (2) rounds of comments from ADEM and resubmit plans for approval. Any other ADEM or environmental permitting necessary for this project will be considered an additional service.

Task 7 – Hydro Excavation (as-needed, per day rate of) \$3,081.81

As an optional services, Morell Engineering can provide hydro excavation services for the planned intersection and/or sidewalk installation route. If this is requested, Morell Engineering will subcontract a contractor to perform the hydro excavation services in order to expose utilities that are present at the intersection or along the sidewalk installation route.



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Additional Services (as-needed hourly)

Any services not specifically provided for in the above scope, as well as any changes in the scope the Client requests, will be considered additional services and will be performed at our then-current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Additional meetings (as necessary and as authorized by the Client on an hourly basis)
- Additional permitting (as necessary and as authorized by the Client on an hourly basis)
- Traffic signal timing
- Interconnect design
- Additional traffic signal designs
- Construction phase services
- Signal warrant analysis
- Vehicular, bicycle, or pedestrian data collection
- Offsite detour plans
- Offsite road improvements
- Utility design
- Pavement evaluation and design
- Environmental/wetland mitigation
- Hydraulic calculations/fire flow model
- Design variances and design exceptions to current applicable design criteria
- Closed system drainage design
- Design of roadway or pedestrian lighting
- Design of landscape or special hardscape features
- Structural design or evaluation not explicitly identified in the scope, including but not limited to, any retaining wall design, culvert design, foundation design, or evaluation of existing structures for additional loading.
- Any additional traffic or civil consulting services

INFORMATION PROVIDED BY CLIENT

Kimley-Horn will rely upon the accuracy and completeness of all documents, surveys, reports, plans, and specifications provided by the Client, the Client's consultants, or by others for whom Kimley-Horn is not legally responsible. The Client acknowledges that verifying the accuracy and completeness of such items is not part of Kimley-Horn's scope of services.

The following is to be supplied by the Client in support of this proposal:

- Topographic survey including Right-of-Way and Utilities for the following location:
 - Gooch Lane and Wall Triana Highway
- Signal timing database for the following location:
 - Gooch Lane and Wall Triana Highway



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FEE SUMMARY

Kimley-Horn will accomplish the services outlined in **Tasks 1-4** for the total lump sum fee shown below. Individual task amounts are informational only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Task 1	Traffic Signal Design	\$15,000
Task 2	Geotechnical Drilling (Morell Engineering, Inc.)	\$4,450
Task 3	Mast Arm Pole Foundation Design	\$13,500
Task 4	Sidewalk and Drainage Design	\$32,000
Total Lump Sum Fee		<u>\$64,950</u>

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed.

Kimley-Horn will perform the services outlined in **Tasks 5-6** on an hourly labor fee plus expense basis with the maximum labor fee shown below.

Task 5	Right-of-Way Plats	\$5,000
Task 6	ADEM NDPES Permitting	\$5,000

Kimley-Horn will not exceed the total maximum labor fee shown without prior authorization from the Client. Labor fee will be billed on an hourly basis according to our then-current rates.

The project team will perform the services outlined in **Task 7** for a daily labor fee plus expense basis shown below.

Task 7	Hydro Excavation	\$3,081.81
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Kimley-Horn will not perform the services listed in Task 7 without prior authorization from the Client.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number. All permitting, application, and similar project fees will be paid directly by the Client.



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CLOSURE

In addition to the matters set forth herein, our agreement shall include, and shall be subject to, the Standard Provisions hereto and hereby incorporated herein. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to the **City of Madison**.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

_____ Please email all invoices to _____

_____ Please copy _____

If you concur in all the forgoing and wish to direct us to proceed with the aforementioned services, please have authorized persons execute the enclosed copy of this Agreement in the spaces provided below and return the same to the undersigned. We will commence services only after we have received a fully-executed copy of the Agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in delay in starting work on your project.

We appreciate the opportunity to submit this proposal to you. We look forward to performing these services for you and will begin work immediately upon your notification. Please contact me at 205-598-4164 or at jenny.brown@kimley-horn.com should you have any questions or requested changes.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

Jenny Brown, P.E., PTOE, IMSA TS II
Project Manager

Kenn Fink, P.E.
Authorized Signer

Agreed to this _____ day of _____, 2022.



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**City of Madison, Alabama
A Municipality**

Signed: _____

Date: _____

Printed Name: _____

Title: _____

Email: _____

_____, Witness

Printed Name: _____

Official Seal:

Client's Federal Tax ID: _____

Client's Business License No.: _____

Client's Street Address: _____

Attachments: Request for Information
Standard Provisions



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Request for Information

Please return this information with your signed contract; failure to provide this information could result in delay in starting your project

Client Identification

Full, Legal Name of Client					
Mailing Address for Invoices					
Contact for Billing Inquiries					
Contact's Phone and e-mail					
Client is (check one)	Owner	<input type="checkbox"/>	Agent for Owner	<input type="checkbox"/>	Unrelated to Owner

Property Identification

	Parcel 1	Parcel 2	Parcel 3	Parcel 4
Street Address				
County in which Property is Located				
Tax Assessor's Number(s)				

Property Owner Identification

	Owner 1	Owner 2	Owner 3	Owner 4
Owner(s) Name				
Owner(s) Mailing Address				
Owner's Phone No.				
Owner of Which Parcel #?				

Project Funding Identification – List Funding Sources for the Project

Attach additional sheets if there are more than 4 parcels or more than 4 owners

**KIMLEY-HORN AND ASSOCIATES, INC.
STANDARD PROVISIONS**

- 1) **Consultant's Scope of Services and Additional Services.** The Consultant will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.
- 2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:
 - a. Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
 - b. Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
 - c. Provide the Consultant all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which the Consultant may rely upon.
 - d. Arrange for access to the site and other property as required for the Consultant to provide its services.
 - e. Review all documents or reports presented by the Consultant and communicate decisions pertaining thereto within a reasonable time so as not to delay the Consultant.
 - f. Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
 - g. Obtain any independent accounting, legal, insurance, cost estimating, and feasibility services required by Client.
 - h. Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the Consultant's services or any defect or noncompliance in any aspect of the project.
- 3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months, Consultant's compensation shall be renegotiated.
- 4) **Method of Payment.** Client shall pay Consultant as follows:
 - a. Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
 - b. If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.
 - c. If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.
 - d. If the Consultant initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Consultant's normal hourly billing rates, of the time devoted to such proceedings by its employees.
 - e. The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.
- 5) **Use of Documents.** All documents and data prepared by the Consultant are related exclusively to the services described in this Agreement and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of the Consultant's documents, or any reuse of the documents without written authorization by the Consultant will be at the Client's sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. The Consultant's electronic files and source code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an

electronic seal are provided only for the convenience of the Client and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern.

- 6) **Intellectual Property.** Consultant may use or develop its proprietary software, patents, copyrights, trademarks, trade secrets, and other intellectual property owned by Consultant or its affiliates ("Intellectual Property") in the performance of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Consultant maintains all interest in and ownership of its Intellectual Property and conveys no interest, ownership, license to use, or any other rights in the Intellectual Property to Client. Any enhancements of Intellectual Property made during the performance of this Agreement are solely owned by Consultant and its affiliates.
- 7) **Opinions of Cost.** Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.
- 8) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. The Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination.
- 9) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.
- 10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks are allocated such that, to the fullest extent allowed by law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of or in any way related to the services under this Agreement from any causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by the Consultant under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. This Section is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section shall require the Client to indemnify the Consultant.
- 11) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.
- 12) **Construction Costs.** Under no circumstances shall the Consultant be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Consultant shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before the Consultant has issued final, fully approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.
- 13) **Certifications.** All requests for the Consultant to execute certificates, lender consents, or other third-party reliance letters must be submitted to the Consultant at least 14 days prior to the requested date of execution. The Consultant shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.
- 14) **Dispute Resolution.** All claims arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

- 15) **Hazardous Substances and Conditions.** Consultant shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant will notify the Client of unanticipated hazardous substances or conditions of which the Consultant actually becomes aware. The Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.
- 16) **Construction Phase Services.**
- a. If the Consultant prepares construction documents and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.
 - b. The Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
 - c. The Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.
- 17) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.
- 18) **Confidentiality.** The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.
- 19) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State where the Project is located. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements, or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. If Client requires Consultant to register with or use an online vendor portal for payment or any other purpose, any terms included in the registration or use of the online vendor portal that are inconsistent or in addition to these terms shall be void and shall have no effect on Consultant or this Agreement. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

RESOLUTION NO. 2022-257-R

**A RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE AND
EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-
HORN & ASSOCIATES, INC.**

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 Kimley-Horn & Associates, Inc. for professional engineering consulting services, said Agreement to be substantially similar in purpose, intent, and composition to that certain document attached hereto and identified as "Proposal for Professional Services" for traffic signal design at Hardiman Road and Burgreen Road 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 OHM Advisors in a total amount not to exceed thirty-nine thousand two hundred thirty one dollars and eighty one cents (\$39,231.81) 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 10th day of October 2022.

Greg Shaw, City Council President
City of Madison, Alabama

ATTEST:

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

APPROVED this 10th day of October 2022.

Paul Finley, Mayor

City of Madison, Alabama



August 31, 2022

Ms. Michelle Dunson
City of Madison – Engineering Department
 100 Hughes Road
 Madison, Alabama 35758

Re: **Proposal for Professional Services – Notification: 22-038**
 Traffic Signal Design
 Hardiman Road and Burgreen Road
 Madison, Alabama

Dear Ms. Dunson:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the **City of Madison** ("City" or "Client") for traffic engineering services at the intersection of Hardiman Road and Burgreen Road located in the City of Madison, Alabama.

PROJECT UNDERSTANDING

The Client desires to install a new traffic signal at the intersection of Hardiman Road and Burgreen Road. As a result, the Client would like to retain Kimley-Horn to provide engineering services as described in the scope of services below. Kimley-Horn will partner with Morell Engineering, Inc.

SCOPE OF SERVICES

Task 1 – Traffic Signal Design

\$15,000

Using the digital base mapping provided by Morell Engineering, Inc., Kimley-Horn will prepare plans for a full traffic signal design at the intersection of Hardiman Road and Burgreen Road. The design will be based on the existing intersection geometrics. The proposed signal design will include the following: proposed mast arm pole and signal head locations, proposed cabinet location, proposed controller input file assignments, proposed phasing diagram, proposed vehicle detection locations using video detection cameras, proposed dual pre-emption using AI and Opticom, proposed conduit and junction box locations, proposed signage and sign details, proposed overhead street name sign measurements and details, proposed striping, and necessary notes. Pedestrian accommodations will not be provided as part of this task since there is not currently any sidewalks at the intersection that would allow for connectivity.

Kimley-Horn will develop construction plans consisting of the following sheets:

- Title Sheet
- Index
- Traffic Signal Legend
- Traffic Signal General Notes
- Summary of Quantities
- Traffic Signal Layout



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- Traffic Control Plans
- Special Project Details (if applicable)

Traffic signal plans will be submitted at a scale of 1"=30'. Plans will be submitted to the City for review at the completion of the 60% and 90% plans. Kimley-Horn will respond to and address up to two (2) rounds of comments from the Client at each stage of review. Kimley-Horn will attend up to two (2) meetings with the Client during the design phase to discuss review comments.

Kimley-Horn will provide one (1) Opinion of Probable Construction Cost with the 90% plans and will address and incorporate one (1) round of comments from the City.

Following approval of the 90% plans, Kimley-Horn will complete preparation of final bid documents. A final Opinion of Probable Construction Cost will be submitted with final bid documents.

Task 2 – Surveying

\$3,750

Kimley-Horn's surveying subconsultant, Morell Engineering, Inc., will perform surveying services of the intersection.

On the mainline (Hardiman Road), the surveyed area will extend from 300 feet west of the west stop bar to 300 feet east of the east stop bar. On the side street (Burgreen Road), the surveyed area will extend from the intersection to 300 feet north of the north stop bar. The survey will include contours and existing structures, roads, underground and overhead utilities, pavement markings, property boundaries, right-of-way, and any other improvements or conditions visible at the time of survey. Please note that the utilities will include those identified by Alabama 811 locators. However, if the City elects to perform optional hydro excavation services (as part of Task 5), utilities will include those exposed through performing this service.

Task 3 – Geotechnical Drilling

\$3,900

Kimley-Horn's geotechnical subconsultant, Morell Engineering, Inc., will perform geotechnical drilling services for the planned traffic signal poles.

Geotechnical Field Services: Since it is not yet known how many new traffic signal poles will be constructed at the intersection, Morell Engineering will drill three (3) total borings, with one (1) boring being placed northwest of the intersection, one (1) boring being placed northeast of the intersection, and one (1) boring being placed south of the intersection. Each boring will be drilled to a depth of twenty-five (25) feet. However, borings may be terminated at shallower depths should auger refusal be encountered during drilling. Exploration of refusal materials, if encountered, is not included in our scope of services.

The boring locations will be located in the field by a member of Morell Engineering staff in the available space at each corner of the intersection so that overhead and underground utilities can be avoided. During drilling, Standard Penetration Tests (SPT) will be performed at standard sample intervals for each boring. Each of the samples will be visually classified by a member of the Morell Engineering staff in general accordance with ASTM D2488, *Standard Practice for Description and Identification of Soils (Visual-Manual Procedure)*.



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Underground Utilities: Morell Engineering will contact the Alabama One Call service to locate public utilities within the project site prior to beginning any soil boring activities. While Morell Engineering will exercise standard care to avoid underground utilities, the project team will not be liable for damage to any unmarked or erroneously marked utilities. We note that Alabama One Call utility locators typically will mark utilities that are located within roadways and the roadway's right-of-way.

Site Restoration: To minimize hazardous conditions to others, each bore hole will be backfilled upon completion using the auger cuttings, and the top approximately 24 inches of each bore hole will be grouted.

Report: The results of the geotechnical field exploration will be documented in a written report that will include a description of the subsurface conditions encountered at the soil test boring locations, including groundwater conditions observed in the bore holes during drilling. ***Long-term groundwater monitoring is not included in this proposal.***

Passive pressure diagrams will also be provided, based on the data obtained from each boring.

Task 4 – Mast Arm Pole Foundation Design

\$13,500

Kimley-Horn will provide structural design and construction details for the proposed mast arm foundation to be incorporated in the Traffic Signal Construction Plans. One (1) foundation detail will be prepared for the project utilizing current AASHTO LRFD Signs & Luminaires Design Criteria and the geotechnical information prepared by Morell Engineering, Inc. It is assumed that the foundation will be a single drilled caisson or spread footing based on the site conditions encountered. Kimley-Horn will respond to and address up to two (2) rounds of comments from the Client.

Kimley-Horn will provide limited structural construction phase services related to the mast arm and foundation shop drawings, up to three (3) shop drawing submittals have been assumed. Kimley-Horn will review and take appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for general conformance with the Contract Documents. Such review and action will not extend to means, methods, techniques, equipment choice and usage, schedules, or procedures of construction or to related safety programs. Any action in response to a shop drawing will not constitute a change in the Contract Documents, which can be changed only through the Change Orders.

Potential underground conflicts such as utilities, if encountered, will be avoided to facilitate foundation construction. In locations where underground conflicts appear to be a constraint, the project team will perform hydro excavation during the design phase (as part of Task 5) and will work with the designer to adjust pole locations based on those findings such as to avoid any underground conflicts. If determined to be necessary, hydro excavation should be authorized by the Client (as part of Task 5) and performed by the project team prior to finalizing pole locations and pole foundation design. In the event unforeseen underground conflicts such as boulders are discovered during construction, the project team can provide revised plans with new pole locations and foundation design as an additional service.



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Task 5 – Hydro Excavation (as-needed, per day rate of)

\$3,081.81

As an optional services, Morell Engineering can provide hydro excavation services. If this is requested, Morell Engineering will subcontract a contractor to perform the hydro excavation services in order to expose utilities that are present at the intersection.

Additional Services (as-needed hourly)

Any services not specifically provided for in the above scope, as well as any changes in the scope the Client requests, will be considered additional services and will be performed at our then-current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Additional meetings (as necessary and as authorized by the Client on an hourly basis)
- Permitting (as necessary and as authorized by the Client on an hourly basis)
- Traffic signal timing
- Interconnect design
- Additional traffic signal designs
- Construction phase services
- Signal warrant analysis
- Vehicular, bicycle, or pedestrian data collection
- Offsite detour plans
- Offsite road improvements
- Utility design
- Sidewalk design
- Pavement evaluation and design
- Environmental/wetland mitigation
- Hydraulic calculations/fire flow model
- Design variances and design exceptions to current applicable design criteria
- Closed system drainage design
- Driveway profiles
- Design of roadway or pedestrian lighting
- Design of landscape or special hardscape features
- Structural design or evaluation not explicitly identified in the scope, including but not limited to, any retaining wall design, culvert design, foundation design, or evaluation of existing structures for additional loading.
- Any additional traffic or civil consulting services



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INFORMATION PROVIDED BY CLIENT

Kimley-Horn will rely upon the accuracy and completeness of all documents, surveys, reports, plans, and specifications provided by the Client, the Client's consultants, or by others for whom Kimley-Horn is not legally responsible. The Client acknowledges that verifying the accuracy and completeness of such items is not part of Kimley-Horn's scope of services.

The following is to be supplied by the Client in support of this proposal:

- Halsey Farms Residential & School Development – Traffic Impact Analysis – April 2022

FEE SUMMARY

Kimley-Horn will accomplish the services outlined in **Tasks 1-4** for the total lump sum fee shown below. Individual task amounts are informational only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Task 1	Traffic Signal Design	\$15,000
Task 2	Surveying (Morell Engineering, Inc.)	\$3,750
Task 3	Geotechnical Drilling (Morell Engineering, Inc.)	\$3,900
Task 4	Mast Arm Pole Foundation Design	\$13,500

Total Lump Sum Fee	<u>\$36,150</u>
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Lump sum fees will be invoiced monthly based upon the overall percentage of services performed.

The project team will perform the services in **Task 5** for a daily labor fee plus expense basis shown below.

Task 5	Hydro Excavation	\$3,081.81
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Kimley-Horn will not perform the services listed in Task 5 without prior authorization from the Client.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number. All permitting, application, and similar project fees will be paid directly by the Client.



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CLOSURE

In addition to the matters set forth herein, our agreement shall include, and shall be subject to, the Standard Provisions hereto and hereby incorporated herein. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to the **City of Madison**.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

____ Please email all invoices to _____

____ Please copy _____

If you concur in all the forgoing and wish to direct us to proceed with the aforementioned services, please have authorized persons execute the enclosed copy of this Agreement in the spaces provided below and return the same to the undersigned. We will commence services only after we have received a fully-executed copy of the Agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in delay in starting work on your project.

We appreciate the opportunity to submit this proposal to you. We look forward to performing these services for you and will begin work immediately upon your notification. Please contact me at 205-598-4164 or at jenny.brown@kimley-horn.com should you have any questions or requested changes.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

Jenny Brown, P.E., PTOE, IMSA TS II
Project Manager

Kenn Fink, P.E.
Authorized Signer

Agreed to this _____ day of _____, 2022.



City of Madison, Alabama
A Municipality

Signed: _____

Date: _____

Printed Name: _____

Title: _____

Email: _____

_____, Witness

Printed Name: _____

Official Seal:

Client's Federal Tax ID: _____

Client's Business License No.: _____

Client's Street Address: _____

Attachments: Request for Information
 Standard Provisions



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Request for Information

Please return this information with your signed contract; failure to provide this information could result in delay in starting your project

Client Identification

Full, Legal Name of Client					
Mailing Address for Invoices					
Contact for Billing Inquiries					
Contact's Phone and e-mail					
Client is (check one)	Owner	<input type="checkbox"/>	Agent for Owner	<input type="checkbox"/>	Unrelated to Owner

Property Identification

	Parcel 1	Parcel 2	Parcel 3	Parcel 4
Street Address				
County in which Property is Located				
Tax Assessor's Number(s)				

Property Owner Identification

	Owner 1	Owner 2	Owner 3	Owner 4
Owner(s) Name				
Owner(s) Mailing Address				
Owner's Phone No.				
Owner of Which Parcel #?				

Project Funding Identification – List Funding Sources for the Project

Attach additional sheets if there are more than 4 parcels or more than 4 owners

**KIMLEY-HORN AND ASSOCIATES, INC.
STANDARD PROVISIONS**

- 1) **Consultant's Scope of Services and Additional Services.** The Consultant will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.
- 2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:
 - a. Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
 - b. Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
 - c. Provide the Consultant all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which the Consultant may rely upon.
 - d. Arrange for access to the site and other property as required for the Consultant to provide its services.
 - e. Review all documents or reports presented by the Consultant and communicate decisions pertaining thereto within a reasonable time so as not to delay the Consultant.
 - f. Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
 - g. Obtain any independent accounting, legal, insurance, cost estimating, and feasibility services required by Client.
 - h. Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the Consultant's services or any defect or noncompliance in any aspect of the project.
- 3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months, Consultant's compensation shall be renegotiated.
- 4) **Method of Payment.** Client shall pay Consultant as follows:
 - a. Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
 - b. If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.
 - c. If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.
 - d. If the Consultant initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Consultant's normal hourly billing rates, of the time devoted to such proceedings by its employees.
 - e. The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.
- 5) **Use of Documents.** All documents and data prepared by the Consultant are related exclusively to the services described in this Agreement and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of the Consultant's documents, or any reuse of the documents without written authorization by the Consultant will be at the Client's sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. The Consultant's electronic files and source code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an

electronic seal are provided only for the convenience of the Client and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern.

- 6) **Intellectual Property.** Consultant may use or develop its proprietary software, patents, copyrights, trademarks, trade secrets, and other intellectual property owned by Consultant or its affiliates ("Intellectual Property") in the performance of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Consultant maintains all interest in and ownership of its Intellectual Property and conveys no interest, ownership, license to use, or any other rights in the Intellectual Property to Client. Any enhancements of Intellectual Property made during the performance of this Agreement are solely owned by Consultant and its affiliates.
- 7) **Opinions of Cost.** Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.
- 8) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. The Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination.
- 9) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.
- 10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks are allocated such that, to the fullest extent allowed by law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of or in any way related to the services under this Agreement from any causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by the Consultant under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. This Section is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section shall require the Client to indemnify the Consultant.
- 11) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.
- 12) **Construction Costs.** Under no circumstances shall the Consultant be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Consultant shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before the Consultant has issued final, fully approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.
- 13) **Certifications.** All requests for the Consultant to execute certificates, lender consents, or other third-party reliance letters must be submitted to the Consultant at least 14 days prior to the requested date of execution. The Consultant shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.
- 14) **Dispute Resolution.** All claims arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

- 15) **Hazardous Substances and Conditions.** Consultant shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant will notify the Client of unanticipated hazardous substances or conditions of which the Consultant actually becomes aware. The Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.
- 16) **Construction Phase Services.**
- a. If the Consultant prepares construction documents and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.
 - b. The Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
 - c. The Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.
- 17) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.
- 18) **Confidentiality.** The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.
- 19) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State where the Project is located. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements, or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. If Client requires Consultant to register with or use an online vendor portal for payment or any other purpose, any terms included in the registration or use of the online vendor portal that are inconsistent or in addition to these terms shall be void and shall have no effect on Consultant or this Agreement. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

RESOLUTION NO. 2022-258-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 hydrologic and hydraulic analysis, surveying, and conceptual design services, 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 OHM Advisors in a total amount not to exceed One hundred ninety-nine thousand and nine hundred twenty five dollars (\$199,925.00) 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 10th day of October 2022.

Greg Shaw, City Council President
City of Madison, Alabama

ATTEST:

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

APPROVED this 10th day of October 2022.

Paul Finley, Mayor
City of Madison, Alabama



**Agreement
For
Professional Services
City of Madison, Alabama
Project No. 21T10250**



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THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made as of the Effective Date by and between the **City of Madison, Alabama** (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 have hydrologic and hydraulic analyses, surveying and conceptual design for two (2) bridge replacements along Palmer Road 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, in the form set forth in Exhibit D, 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.

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 makeup 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 one hundred percent (100%) of Garver's fee set forth in Exhibit B.

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 Huntsville, Alabama. 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.
- 10.2. 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 Alabama, 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 – Form of Amendment

If there is an express conflict between the provisions of this Agreement and any Exhibit hereto, the terms of this Agreement shall take precedence over the conflicting provisions of the Exhibit.

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.

[Signature Page to Follow]



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.

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

City of Madison, Alabama

Garver, LLC

By: _____
Signature

By: 
Signature

Name: _____
Printed Name

Name: Ryan Patton
Printed Name

Title: _____

Title: Senior Project Manager

Date: _____

Date: 9/30/2022

Attest: _____

Attest: 



EXHIBIT A (SCOPE OF SERVICES)

1. GENERAL

Generally, the scope of services includes professional services to provide hydraulic bridge recommendations for the Palmer Road Bridge Replacements over Bradford Creek and Mill Creek in the City of Madison, Alabama. The scope of services generally includes topographic surveying, hydrologic and hydraulic analyses (drainage study), and preparation of conceptual level plans for the bridge replacement recommendations.

BASIC SERVICES

2. COORDINATION

Garver will attend two (2) virtual coordination meetings with the Owner. Garver will prepare exhibits for these meetings when appropriate.

3. DRAINAGE STUDY

Bradford Creek and Mill Creek, a tributary of Bradford Creek, are included in the Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) for Madison County, Alabama and Incorporated Areas, Revised August 16, 2018. Both streams within the study area are designated as a FEMA Special Flood Hazard Area (SFHA), Zone "AE" with a regulatory floodway according to the Flood Insurance Rate Map (FIRM) Map Number 01089C0284E, Revised October 2, 2014.

3.1. FEMA FIS Data

The City has made a data request for all effective FEMA FIS data. The effective models that are available for the study reach have been received by the City from the FEMA Technical Mapping Partner and provided to Garver.

Garver will review the technical and administrative support data that is received from the City and will use the effective hydrologic and hydraulic data to the extents possible if it is determined to be satisfactory based on current conditions.

3.2. Hydrologic Analysis

The FEMA FIS includes a summary of discharges for Bradford Creek and Mill Creek; however, it is not clear in the FIS as to when these discharges for Mill Creek were determined. The stream reach of Bradford Creek, approximately 1,400 feet upstream of Palmer Road, was studied using HEC-HMS 3.3 in 10/02/2014. Based on review of aerial photographs, it appears that significant development has occurred within the watershed upstream of Palmer Road since early 2000s.

Garver will develop a hydrologic model using HEC-HMS and will perform hydrologic analyses of the Bradford Creek and Mill Creek drainage basins for the Palmer Road crossings. The HEC-HMS hydrologic model will be used to determine existing conditions peak discharges at the crossings for storm events including the 10-, 25-, 50-, 100-, and 500-year events. 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 publicly available lidar elevation data and based on land use from current aerial photos



and verified by field investigations. Runoff characteristics for non-developed areas will be based on current land-use plans. Estimated peak discharges will be compared to the values published in the effective FEMA FIS for each respective flooding source and location.

A fully developed conditions analysis of the drainage basins will also be conducted to estimate future peak discharges for the 10-, 25-, 50-, 100-, and 500-year events. The analysis will utilize the city's comprehensive land use plan and/or zoning information to determine future land use for all undeveloped areas.

3.3. Hydraulic Analysis

Review of the effective FIRM denotes the crossings on Palmer Road have a common shared floodplain, and the confluence of Mill Creek with Bradford Creek is approximately 1,300 feet downstream of Palmer Road. The effective FIS specifies the stream reach beginning approximately 1,400 feet upstream of Palmer Road and extending to about 3,300 feet upstream of Browns Ferry Road was studied using HEC-RAS 3.1 in October 2014. The FIS does not specify any method or dates for Mill Creek.

Based on the shared floodplain, multiple openings, skewed alignment, and close proximity of the confluence of Mill Creek to the road crossing, it is recommended that a two-dimensional (2D) hydraulic model be used to evaluate the existing and post-project conditions of Bradford Creek and Mill Creek.

Garver will develop a SRH-2D hydraulic model for Bradford Creek and Mill Creek from FEMA Lettered Cross Section "V", located 0.4 miles downstream of the railroad to just downstream of Mill Road. Garver will utilize the model to evaluate existing conditions and to determine limits of 100-year floodplain and base flood elevations for Bradford Creek and Mill Creek within the limits of the detailed study. Known water surface elevations provided in the FEMA FIS for Letter Cross Section "V" will be used as the downstream boundary conditions for SRH-2D model, and flood profiles will be compared to those published on the FIRM and in the FIS.

- A. Produce a post-project (proposed conditions) model to simulate and evaluate proposed replacement hydraulic structure alternatives. Evaluation of no more than two (2) design alternatives is included in the Scope of Services. Due to the development within the apparent floodplain(s), a 100-year no-rise hydraulic design condition will be sought. This will be determined in accordance with the FEMA guidance for two-dimensional modeling (i.e., averaged cross sectional results, maximum differential, etc.), and may vary from the criteria established for no-rise using traditional one-dimensional modeling. Any tasks required for a design condition with a rise in water surface elevations, including but not limited to evaluation of additional design alternatives or mitigation alternatives, are specifically excluded from this Scope of Services, but can be performed as additional services if requested in writing by the Owner.
- B. Evaluate the pre-project and post-project conditions for the Palmer Park Expansion between Bradford Creek and Mill Creek immediately south of Palmer Road. This analysis will be used to determine the impacts associated with the improvements, if any, on water surface elevations along the floodplain sources. The results will be compared to lettered cross sections included in the FEMA FIS. The city has provided as-bid construction plans, dated September 4, 2019, for the project. The contours from the Grading & Drainage Plan will be used to determine pre-project (existing) terrain prior to the park improvements and post-project (proposed) terrain after construction. This terrain will be verified using survey data collected as part of this scope of services.



- C. Evaluate a proposed pedestrian crossing over Bradford and Mill Creeks. The location of the crossings will be provided by the city. The pedestrian crossing should try to achieve a 100-year no-rise and consider debris accumulations to the extents practical.
- D. Perform a floodway analysis to evaluate the preferred bridge replacement structures at Palmer Road. Compare the proposed floodway results to the effective floodway data.

3.4. Hydraulic Design

Garver will perform a bridge scour analysis in accordance with the Federal Highway Administration (FHWA) publication *Evaluating Scour at Bridges*, Hydraulic Engineering Circular No. 18 (HEC-18) for the preferred bridge replacement alternative. The determination and design of stream instability countermeasures will be based on the FHWA publication *Bridge Scour and Stream Instability Countermeasures*, Hydraulic Engineering Circular No. 23 (HEC-23).

3.5. Drainage Study Memorandum

Garver will develop a brief drainage study memorandum including the following:

- A. Description of hydrologic analyses and peak flows at the sites.
- B. Description of the existing floodplain(s) hydraulic conditions and comparisons to the effective FEMA floodplain.
- C. Description of proposed hydraulic conditions for Palmer Road bridge replacement structure configurations and scour plot with conceptual countermeasures at Bradford Creek and Mill Creek.
- D. Tables showing existing and proposed conditions hydraulic results such as water surface elevations, velocities, and other hydraulic parameters.
- E. Plots of the existing and proposed conditions 100-year floodplain limits.
- F. If applicable, a no-rise certification for the proposed bridge replacement project.

4. **CONCEPTUAL DESIGN**

The conceptual design phase will include a maximum of two (2) bridge replacement alternative Type, Size & Location (TS&L) layouts, design criteria, and an opinion of probable construction cost. Roadway approach horizontal and vertical geometry and typical sections will also be developed for each alternative. The layout exhibits will consist of scaled 11"x17" plan sheets which fit the extents of the improvements for each alternative. 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 opinion of probable cost estimate for the project. Preliminary and Final Design of the preferred replacement alternative is not included in this scope of work but can be added by amendment.

5. **SURVEYS**

5.1. Topographic Surveys

Garver will provide field survey data for the drainage study, and this survey will be tied to the Owner's control network or state plane network. Locations of the channel cross-sections to surveyed are illustrated in Attachment "A". The length of the lines shown do not denote the length of surveyed section. Channel cross sections shall extend approximately 50-feet from the



high-top bank on both sides of the channels. Publicly available lidar elevation data will be used to extend the channel cross sections across the entire floodplain and used to create the terrain model for the hydraulic model.

Garver will conduct field surveys, utilizing GPS and radial topography methods, at intervals and for distances at and/or along the project site as appropriate for modeling the existing ground and generating cross-sections to be used for hydraulic modeling. Garver will survey the existing Palmer Road roadway prism (edge of shoulder to edge of shoulder) and existing bridges from the Bradford Creek Greenway Trailhead at Palmer Park to the Waxwing Street intersection to be used for preliminary engineering design of roadway and bridge improvements. Garver will establish control points for use during construction.

5.2. Property Surveys

Property or boundary surveys, title abstracting, and preparation of property acquisition documents are anticipated for the completion of the project but are not included in this scope of services.

5.3. Site and Stream Reconnaissance

Garver will conduct a site visit to visually observe the project site and stream conditions within the study area. Pertinent structures and field conditions will be photographed and documented for use in the drainage study. Where appropriate, the photographs will be included in the final drainage memorandum.

6. PROJECT DELIVERABLES

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

- A. Two (2) copies of the Drainage Study Memorandum.
- B. Two (2) copies of the Conceptual Replacement Alternative Layouts with opinion of probable construction costs.
- C. Electronic files as requested.

ADDITIONAL SERVICES

7. FEMA CLOMR COORDINATION

If it is determined that a 100-year no-rise certification cannot be achieved, Garver will provide the following additional scope of services.

- A. Prepare a Conditional Letter of Map Revision (CLOMR) on behalf of the City of Madison. The application package will include the following:
 - i. Project narrative
 - ii. Completed applicable MT-2 forms
 - iii. Certified topographic work map(s) and annotated FIRM(s)
 - iv. Include proposed plans (prepared in Final Design phase)
 - v. Draft floodway notice for all affected property owners. Notifications shall be submitted to the City of Madison for distribution to the property owners.
 - vi. Endangered Species Act (ESA) Compliance Documentation shall be provided by the City of Madison. ESA documentation is excluded from the additional services.
- B. Submit the CLOMR application to FEMA for review.



- C. Coordinate with FEMA to address up to two (2) rounds of review comments. Coordination and addressing additional rounds of comments shall be considered Extra Work.

The basis of estimate does not include the current applicable fee for a FEMA CLOMR review. It is assumed that the City of Madison will pay this fee.

8. 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. Geotechnical services
- D. Environmental services
- E. Preliminary and final design
- F. Property acquisition documents
- G. Construction phase services

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





Exhibit B
City of Madison, Alabama
Palmer Road Bridge Replacements
Garver Hourly Rate Schedule: July 2022 - June 2023

Classification	Rates	Classification	Rates
Engineers / Architects		Resource Specialists	
E-1	\$ 120.00	RS-1	\$ 96.00
E-2	\$ 146.00	RS-2	\$ 133.00
E-3	\$ 165.00	RS-3	\$ 188.00
E-4	\$ 192.00	RS-4	\$ 246.00
E-5	\$ 235.00	RS-5	\$ 308.00
E-6	\$ 269.00	RS-6	\$ 379.00
E-7	\$ 375.00	RS-7	\$ 431.00
Planners		Environmental Specialists	
P-1	\$ 140.00	ES-1	\$ 96.00
P-2	\$ 172.00	ES-2	\$ 127.00
P-3	\$ 215.00	ES-3	\$ 154.00
P-4	\$ 245.00	ES-4	\$ 191.00
P-5	\$ 285.00	ES-5	\$ 240.00
Designers		ES-6	\$ 293.00
D-1	\$ 115.00	ES-7	\$ 376.00
D-2	\$ 137.00	ES-8	\$ 425.00
D-3	\$ 151.00	Project Controls	
D-4	\$ 177.00	PC-1	\$ 99.00
Technicians		PC-2	\$ 136.00
T-1	\$ 100.00	PC-3	\$ 173.00
T-2	\$ 110.00	PC-4	\$ 222.00
T-3	\$ 130.00	PC-5	\$ 271.00
T-4	\$ 160.00	PC-6	\$ 333.00
Surveyors		PC-7	\$ 428.00
S-1	\$ 52.00	Administration / Management	
S-2	\$ 71.00	AM-1	\$ 52.00
S-3	\$ 90.00	AM-2	\$ 85.00
S-4	\$ 120.00	AM-3	\$ 109.00
S-5	\$ 172.00	AM-4	\$ 140.00
S-6	\$ 205.00	AM-5	\$ 198.00
2-Man Crew (Survey)	\$ 210.00	AM-6	\$ 250.00
3-Man Crew (Survey)	\$ 250.00	AM-7	\$ 301.00
2-Man Crew (GPS Survey)	\$ 230.00	M-1	\$ 385.00
3-Man Crew (GPS Survey)	\$ 275.00		
Construction Observation			
C-1	\$ 106.00		
C-2	\$ 136.00		
C-3	\$ 165.00		
C-4	\$ 204.00		
C-5	\$ 244.00		

Agreement for Professional Services
Palmer Road Bridge Replacements

Garver Project No. 21T10250

Exhibit B**City of Madison, Alabama
Palmer Road Bridge Replacements****FEE SUMMARY**

Phase I Service	Estimated Fees
Drainage Study	\$ 127,296.00
Surveys	\$ 21,388.00
Conceptual Design	\$ 51,241.00
Subtotal for Phase I Service	\$ 199,925.00

Exhibit B**City of Madison, Alabama
Palmer Road Bridge Replacements****DRAINAGE STUDY**

WORK TASK DESCRIPTION	E-5	E-4	E-3	E-1	P-2	AM-2
	\$235.00	\$192.00	\$165.00	\$120.00	\$172.00	\$85.00
	hr	hr	hr	hr	hr	hr
1. Project Management						
Administration and Coordination	8					3
Prepare PMP	4					
Submittals to Client	2		2			
Subtotal - Project Management	14	0	2	0	0	3
2. Coordination						
Client meetings (2 virtual)	4		4			
Subtotal - Coordination	4	0	4	0	0	0
3. FEMA FIS Data						
Review effective data	2		2	4		
Subtotal - FEMA FIS Data	2	0	2	4	0	0
4. Hydrologic Analysis						
Current Conditions						
Delineate watershed and determine parameters			2	30		
Develop HEC-HMS model			8	10		
Fully Developed Conditions						
Determine fully developed parameters			2	16		
Update HEC-HMS model			2	4		
Document flows for use in hydraulic model	2		4			
Quality Control Review and Address Comments		8	8	4		
Subtotal - Hydrologic Analysis	2	8	26	64	0	0
5. Hydraulic Analysis						
Palmer Road Bridge Replacements						
Existing Conditions Analysis						
Establish model domain and boundary conditions	1		8			
Merge survey with lidar			4		8	
Prepare existing conditions terrain and landuse			20	8		
Import existing bridge data			8	4		
Develop mesh	4		20			
Layout monitoring/observation arcs	1		2			
Execute, refine, and extract/map existing data			16			
Proposed Conditions Analysis						
Modify post-project terrain			4		8	
Update post-project mesh			12			
Import replacement structures (2 alternatives)			16		6	
Execute, refine, and extract/map post-project data			16			
Floodplain mapping				8	8	
Palmer Park Expansion Grading Evaluation						
Update pre-project terrain		4	4			
Execute, refine, and extract pre-project data			4			
Update post-project terrain		4	4			
Execute, refine, and extract post-project data			4			
Tabulate results			2			

Palmer Park Expansion Pedestrian Bridge Evaluation						
Evaluate typical stream crossing headwall			2			
Execute, refine, and extract pre-project data			4			
Evaluate alternative design			4			
Execute, refine, and extract post-project data			4			
Tabulate results			2			
Floodway Analysis - Existing Conditions						
Bradford Creek and Mill Creek Combined			16			
Mill Creek Only			16			
Floodway mapping			4	16	4	
Floodway Analysis - Proposed Conditions						
Bradford Creek and Mill Creek Combined			20			
Mill Creek Only			20			
Floodway mapping			4	16	4	
Quality Control Review and Address Comments	40		30	20		
Subtotal - Hydraulic Analysis	46	8	270	72	38	0
6. Hydraulic Design						
Scour Analyses			2	12		
Plot scour hole overlaps				2		
Design riprap at bridge abutments			2	4		
Quality Control Review and Address Comments		2		4		
Subtotal - Hydraulic Design	0	2	4	22	0	0
7. Design Study Memorandum						
Prepare replacement structure exhibits			2	2		
Prepare memorandum	1		8	24		
Tabulation of results			4	8		
Prepare no-rise documentation, if applicable	1		2	8		
Quality Control Review and Address Comments		8	8	4		
Subtotal - Design Study Memorandum	2	8	24	46	0	0
8. FEMA CLOMR Coordination						
CLOMR application (MT-2 forms, report, mapping)			5	12	4	
Coordinate with City of Madison, respond to comments			8	8		
Coordinate with FEMA during review (2 round comments)			40	20	2	
Prepare notification letter and identify affected landowners			4	8		8
Quality Control Review and Address Comments		8	4			
Subtotal - FEMA CLOMR Coordination	0	8	61	48	6	8
Hours	70	34	393	256	44	11
Salary Costs	\$16,450.00	\$6,528.00	\$64,845.00	\$30,720.00	\$7,568.00	\$935.00

SUBTOTAL - SALARIES: \$127,046.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly \$150.00
Travel Costs \$100.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$250.00

SUBTOTAL: \$127,296.00

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$127,296.00

Exhibit B**City of Madison, Alabama
Palmer Road Bridge Replacements****SURVEYS**

WORK TASK DESCRIPTION	E-6	S-5	S-4	T-2	2-Man Crew (GPS Survey)	AM-1
	\$269.00	\$172.00	\$120.00	\$110.00	\$230.00	\$52.00
	hr	hr	hr	hr	hr	hr
1. Project Management						
Administration and Coordination	0.5	2				1
Quality Control Review	0.5	2				
Subtotal - Project Management	1	4	0	0	0	1
2. Topographic Survey						
Establish Project Control		1			12	
17 Cross-Sections (see attached kmz for locations)					40	
Palmer Road roadway prism survey					16	
Data Processing and Mapping Preparation		6	10	20		
Subtotal - Topographic Survey	0	7	10	20	68	0
3. Property Survey						
Survey Layout Map						
Review of Existing Control Points						
Property Surveys						
Data Processing/Preparation						
Subtotal - Property Survey	0	0	0	0	0	0

Hours	1	11	10	20	68	1
Salary Costs	\$269.00	\$1,892.00	\$1,200.00	\$2,200.00	\$15,640.00	\$52.00

SUBTOTAL - SALARIES: \$21,253.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$10.00
Survey Supplies	\$25.00
Travel Costs	\$100.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$135.00

SUBTOTAL: \$21,388.00

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$21,388.00

Exhibit B**City of Madison, Alabama
Palmer Road Bridge Replacements****CONCEPTUAL DESIGN**

WORK TASK DESCRIPTION	E-6	E-4	E-2	E-1	T-3	AM-1
	\$269.00	\$192.00	\$146.00	\$120.00	\$130.00	\$52.00
	hr	hr	hr	hr	hr	hr
1. Project Management						
Administration and Coordination	3	1				1
Quality Control Review	8	4				
Submittals to Client	1					1
Subtotal - Project Management	12	5	0	0	0	2
2. Preliminary Engineering (2 Alternatives)						
Typical Sections Development and Modeling	2	4	8	8	4	
Horizontal & Vertical Alignments Development	4	12	16	16	4	
Bridge TS&L Layouts	8	40	60	12	16	
Proposed Project Layout Maps	2	8	16	24	20	
Meetings/Coordination with City	2	2				
Opinion of Probable Construction Cost	2	5	2			
Subtotal - Preliminary Engineering (2 Alternatives)	20	71	102	60	44	0
Hours	32	76	102	60	44	2
Salary Costs	\$8,608.00	\$14,592.00	\$14,892.00	\$7,200.00	\$5,720.00	\$104.00

SUBTOTAL - SALARIES: \$51,116.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly \$75.00
Travel Costs \$50.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$125.00

SUBTOTAL: \$51,241.00

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$51,241.00



**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



**EXHIBIT D
(FORM OF AMENDMENT)**

**AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
City of Madison, Alabama
Project No. 21T10250**

AMENDMENT NO. [?]

This Amendment No. [?], effective on the date last written below, shall amend the original contract between the City of Madison, Alabama ("Client") and Garver, LLC ("Garver"), dated [Insert date] (the "Agreement").

This Amendment No. [?] adds/modifies the Services for the:

[Describe improvements and location]

The Agreement is hereby modified as follows:

SECTION [?] – [Insert section heading]

Section [?] of the Agreement is hereby amended as follows:

This Amendment may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

City of Madison, Alabama

Garver, LLC

By: _____
Signature

By: _____
Signature

Name: _____
Printed Name

Name: _____
Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

Attest: _____

Attest: _____

RESOLUTION NO. 2022-266-R**A RESOLUTION ACCEPTING INTO PUBLIC USE AND MAINTENANCE
THE SUBDIVISION IMPROVEMENTS FOR BRADFORD STATION,
PHASE 1.**

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that, upon the recommendation of the Planning Department and Engineering Department, effective October 10th, 2022, the City of Madison accepts for public use and maintenance the street, drainage, and utilities within the rights of way and easements dedicated for Bradford Station, Phase 1 as recorded in the Madison County Probate Office in Plat Book 2022, Pages 103-105.

READ, APPROVED, and ADOPTED this 10th day of October 2022.

Greg Shaw, City Council President
City of Madison, Alabama

ATTEST:

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

APPROVED this 10th day of October, 2022.

Paul Finley, Mayor
City of Madison, Alabama



CITY OF MADISON, ALABAMA
MAINTENANCE BOND FOR SUBDIVISION IMPROVEMENTS

Subdivision: Bradford Station Phase 1

Principal: Lennar Homes of Alabama, LLC

Bond No: _____ Amount: \$194,604.69 LOC _____ Cash X

KNOW ALL MEN BY THESE PRESENTS that the above-referenced PRINCIPAL is held and firmly bound unto the City of Madison, Alabama (the "CITY") in the above stated amount for the payment of which sum the above listed and attached security is irrevocably pledged. Said PRINCIPAL, and its Surety, if applicable, does successively bind itself, its heirs, executors, administrators, successors, and assigns, jointly and severally, by these presents.


WHEREAS, SUBDIVISION IMPROVEMENTS (except water and sewer improvements accepted by the Water and Wastewater Board and sidewalks separately bonded) in the above referenced subdivision constructed by the PRINCIPAL, have been or are expected to be approved for dedication to and acceptance by the City effective as of the above referenced acceptance date; and

WHEREAS, in consideration of the acceptance of said subdivision improvements by the CITY, the PRINCIPAL hereby guarantees to the CITY for a period of two (2) years after dedication of said improvements that any and all defects or deficiencies arising, occurring, or becoming apparent with respect to said improvements within that period, whether resulting from negligence or defective or inferior materials or workmanship, shall be promptly repaired, replaced, or corrected at the expense of the PRINCIPAL or its Surety.

NOW, THEREFORE, the condition of this obligation is such that if the PRINCIPAL shall replace, repair, or correct any and all defects or deficiencies arising, occurring, or becoming apparent with respect to said subdivision improvements within two (2) years from and after the acceptance date, whether resulting from negligence or defective or inferior materials or workmanship, then the above obligation shall be void, otherwise to remain in full force and effect.

Inspection and acceptance of the subdivision improvements by the CITY shall in no way affect the obligation created by this BOND. In the event of any default by the PRINCIPAL, or its Surety, if applicable, in the performance of the condition of this BOND, after written notice and demand to PRINCIPAL by the City, or in the event that the CITY shall incur any cost, obligation, or fee in performing the condition of this bond after a refusal or failure of PRINCIPAL to do so, then said PRINCIPAL, and Surety if applicable, shall be obligated to the CITY for the amount of such cost, obligation, or fee. Said obligation of the PRINCIPAL IS EXPRESSLY UNDERSTOOD AND AGREED NOT TO BE LIMITED TO THE AMOUNT OF THIS BOND. In the event that any action is commenced by the CITY for the enforcement of the obligations and penalties of this BOND, the PRINCIPAL, and applicable sureties, jointly and severally waive all claims of exemption which they may have or be entitled to under the constitution and laws of the State of Alabama and agree to pay reasonable attorneys' fees for the prosecution of such suit by the City Attorney.

IN WITNESS WHEREOF, we hereunto set our names and seals on this 23 day of September, 2022.



WITNESS

PRINCIPAL

By: 

Its: Division Manager and Authorized Agent

APPROVED:


City Engineer

9/27/2022
Date

ACCEPTED:

CITY OF MADISON

Mayor

Date

ATTEST:

City Clerk - Treasurer

**CITY OF MADISON &
WATER AND WASTEWATER BOARD OF THE CITY OF MADISON
APPLICATION FOR ACCEPTANCE AND DEDICATION OF
SUBDIVISION IMPROVEMENTS**

City of Madison
100 Hughes Road
Madison, Alabama 35758

Madison Utilities
101 Ray Sanderson Drive
Madison, Alabama 35758

Subdivision: Bradford Station, Ph.1

Plat Book: 2022 Page: 103-105 or Document # _____

Probate Records of Madison County, Alabama

The undersigned developer of the above-referenced subdivision hereby applies for acceptance of the subdivision into the maintenance programs of the City of Madison and its Water and Wastewater Board. Applicant hereby dedicates the water and sanitary sewer system of said subdivision to the Water and Wastewater Board of the City of Madison, and all other subdivision improvements to the City of Madison, subject only to final acceptance of same by each of said entities.

The applicant knows of no defects from any cause in these improvements. Applicant certifies that said improvements are free and clear of any encumbrance or loan.

The undersigned developer accepts responsibility for maintenance of said improvements in accordance with maintenance bonds submitted to the City of Madison and its Water and Wastewater Board.

Date: 3/14/2022

Developer: Lennar Homes of Alabama, LLC

Address: 2101 Clinton Avenue West, Suite 202

By: _____

ENGINEERING CERTIFICATION

This is to certify that the sanitary sewer and water systems, the streets, curbs and gutters, and other required subdivision improvements lying within the above-referenced subdivision, are complete, free from defect, and have been constructed in accordance with approved plans and specifications and applicable construction standards of the City of Madison and its Water and Wastewater Board within dedicated easements and/or rights-of-way.

This certification is based on inspections and investigations of the engineer and shall not constitute an express or implied warranty or guarantee of the improvements.

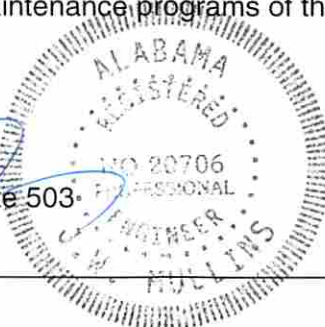
It is understood by the undersigned consulting engineer that representatives of the City of Madison and its Water and Wastewater Board will rely on this certification in determining whether to recommend acceptance of the above-said improvements into the maintenance programs of the Board and the City.

Date: 3/14/2022

Consulting Engineers: Mullins, LLC

Address: 2101 West Clinton Avenue, Suite 503

By: _____



**CITY OF MADISON &
WATER AND WASTEWATER BOARD OF THE CITY OF MADISON
SUBDIVISION ACCEPTANCE FORM**

Subdivision: Bradford Station

Plat Book: _____ Page: _____ or Document # _____

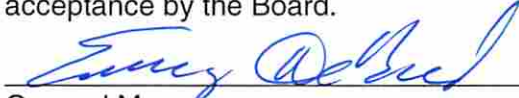
Probate Records of Madison County, Alabama

The water and sanitary sewer systems of the above-referenced subdivision have passed required tests and inspection and are hereby recommended for acceptance into the maintenance program of the Water and Wastewater Board of the City of Madison.



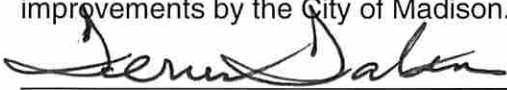
Board Inspector

All required construction plans, bonds and other documents and certifications have been submitted and the above-referenced water and sanitary sewer systems in the above-referenced subdivision are ready for acceptance by the Board.



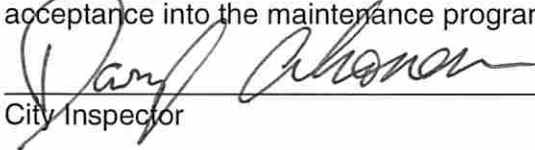
General Manager

Upon affirmative vote of the Water and Wastewater Board on this the 21st day of March, 2022, dedicated water and sanitary sewer systems in the above referenced subdivision are hereby accepted into the maintenance system of the Board, subject only to final acceptance of all other subdivision improvements by the City of Madison.



Board Chairman

Subdivision improvements in the above-referenced subdivision (other than water and sanitary sewer systems accepted by the Water and Wastewater Board) have passed inspection and are hereby recommended for acceptance into the maintenance program of the City of Madison.



City Inspector

All required construction plans, bonds, and other documents and certifications have been submitted and the subdivision improvements (other than water and sanitary sewer systems accepted by the Water and Wastewater Board) are ready for acceptance by the City of Madison.



Director of Planning Engineering

Upon affirmative vote of the City Council of the City of Madison on this the _____ day of _____, _____, dedicated subdivision improvements in the above-referenced subdivision are hereby accepted into the maintenance system of the City of Madison.

Council President

Mayor

RESOLUTION NO. 2022-267-R**A RESOLUTION ACCEPTING INTO PUBLIC USE AND MAINTENANCE
THE SUBDIVISION IMPROVEMENTS FOR BELLAWOODS, PHASE 1.**

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that, upon the recommendation of the Planning Department and Engineering Department, effective October 10th, 2022, the City of Madison accepts for public use and maintenance the street, drainage, and utilities within the rights of way and easements dedicated for Bellawoods, Phase 1 as recorded in the Limestone County Probate Office in Plat Book K, Pages 215-216.

READ, APPROVED, and ADOPTED this 10th day of October 2022.

Greg Shaw, City Council President
City of Madison, Alabama

ATTEST:

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

APPROVED this 10th day of October, 2022.

Paul Finley, Mayor
City of Madison, Alabama



CITY OF MADISON, ALABAMA
MAINTENANCE BOND FOR SUBDIVISION IMPROVEMENTS

Subdivision: BELLAWOODS PHASE 1
 Principal: DILTIMA DEVELOPMENT CORPORATION
 Bond No: 22-075-SP Amount: \$226,916.70 LOC X Cash

KNOW ALL MEN BY THESE PRESENTS that the above-referenced PRINCIPAL is held and firmly bound unto the City of Madison, Alabama (the "CITY") in the above stated amount for the payment of which sum the above listed and attached security is irrevocably pledged. Said PRINCIPAL, and its Surety, if applicable, does successively bind itself, its heirs, executors, administrators, successors, and assigns, jointly and severally, by these presents.

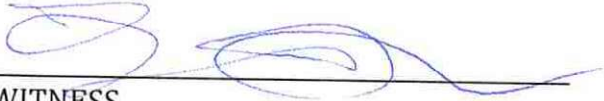
WHEREAS, SUBDIVISION IMPROVEMENTS (except water and sewer improvements accepted by the Water and Wastewater Board and sidewalks separately bonded) in the above referenced subdivision constructed by the PRINCIPAL, have been or are expected to be approved for dedication to and acceptance by the City effective as of the above referenced acceptance date; and

WHEREAS, in consideration of the acceptance of said subdivision improvements by the CITY, the PRINCIPAL hereby guarantees to the CITY for a period of two (2) years after dedication of said improvements that any and all defects or deficiencies arising, occurring, or becoming apparent with respect to said improvements within that period, whether resulting from negligence or defective or inferior materials or workmanship, shall be promptly repaired, replaced, or corrected at the expense of the PRINCIPAL or its Surety.

NOW, THEREFORE, the condition of this obligation is such that if the PRINCIPAL shall replace, repair, or correct any and all defects or deficiencies arising, occurring, or becoming apparent with respect to said subdivision improvements within two (2) years from and after the acceptance date, whether resulting from negligence or defective or inferior materials or workmanship, then the above obligation shall be void, otherwise to remain in full force and effect.

Inspection and acceptance of the subdivision improvements by the CITY shall in no way affect the obligation created by this BOND. In the event of any default by the PRINCIPAL, or its Surety, if applicable, in the performance of the condition of this BOND, after written notice and demand to PRINCIPAL by the City, or in the event that the CITY shall incur any cost, obligation, or fee in performing the condition of this bond after a refusal or failure of PRINCIPAL to do so, then said PRINCIPAL, and Surety if applicable, shall be obligated to the CITY for the amount of such cost, obligation, or fee. Said obligation of the PRINCIPAL IS EXPRESSLY UNDERSTOOD AND AGREED NOT TO BE LIMITED TO THE AMOUNT OF THIS BOND. In the event that any action is commenced by the CITY for the enforcement of the obligations and penalties of this BOND, the PRINCIPAL, and applicable sureties, jointly and severally waive all claims of exemption which they may have or be entitled to under the constitution and laws of the State of Alabama and agree to pay reasonable attorneys' fees for the prosecution of such suit by the City Attorney.

IN WITNESS WHEREOF, we hereunto set our names and seals on this 23 day of SEPTEMBER 2022.

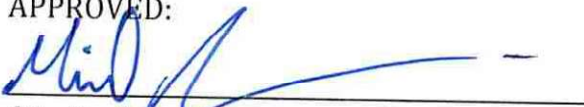

WITNESS

PRINCIPAL

By: 

Its: OFFICER

APPROVED:


City Engineer

9/27/2022
Date

ACCEPTED:

CITY OF MADISON

Mayor

Date

ATTEST:

City Clerk - Treasurer

**THE CITY OF MADISON &
WATER AND WASTEWATER BOARD OF THE CITY OF MADISON
APPLICATION FOR ACCEPTANCE AND DEDICATION OF
SUBDIVISION IMPROVEMENTS**

City of Madison
100 Hughes Road
Madison, Alabama 35758

Madison Utilities
101 Ray Sanderson Drive
Madison, Alabama 35758

Subdivision: BELLAWOODS PHASE 1

Plat Book: K Page: 215-216 or Document # _____

Probate Records of Limestone County, Alabama

The undersigned developer of the above-referenced subdivision hereby applies for acceptance of the subdivision into the maintenance program(s) of the Water and Wastewater Board of the City of Madison (the Board), and the City of Madison. The Applicant hereby dedicates the sanitary sewer system of said subdivision to the Board, and all other subdivision improvements to the City of Madison, subject only to final acceptance of same by each of said entities.

The applicant knows of no defects from any cause in these improvements. Applicant certifies that said improvements are free and clear of any encumbrance or loan.

The undersigned developer accepts responsibility for maintenance of said improvements in accordance with maintenance bonds submitted to the Board, and if applicable the City of Madison.

Date: 7/27/22

Developer: DILTINA DEVELOPMENT CORPORATION

Address: 7545-A HWY 72 W MADISON, AL 35758

By: _____

**ENGINEERING CERTIFICATION
(THE BOARD)**

This is to certify that the sanitary sewer system lying within the above-referenced subdivision, is complete, free from defect, and have been constructed in accordance with approved plans and specifications and applicable construction standards of the Board within dedicated easements and/or rights-of-way.

This certification is based on inspections and investigations of the engineer and shall not constitute an express or implied warranty or guarantee of the improvements.

It is understood by the undersigned consulting engineer that the Board will rely on this certification in determining whether to recommend acceptance of the above-said improvements into the maintenance programs of the Board.

Date: 7/27/22

Consulting Engineer(s): LANDMARK ENGINEERING

Address: 3440 38TH AVE, SUITE 4 MARINE, IL 61265

By: _____

**THE CITY OF MADISON &
WATER AND WASTEWATER BOARD OF THE CITY OF MADISON**

**APPLICATION FOR ACCEPTANCE AND DEDICATION OF
SUBDIVISION IMPROVEMENTS**

Subdivision: BELLAWOODS PHASE 1

Plat Book: _____ Page: _____ or Document # _____

Probate Records of _____ County, Alabama

The sanitary sewer system of the above-referenced subdivision has passed required tests and inspection and are hereby recommended for acceptance into the maintenance program of the Water and Wastewater Board of the City of Madison.

[Signature]
Board Inspector

All required construction plans, bonds and other documents and certifications have been submitted and the above-referenced sanitary sewer system in the above-referenced subdivision are ready for acceptance by the Board.

[Signature]
General Manager

Upon affirmative vote of the Water and Wastewater Board on this the 19th day of September, 2022, dedicated sanitary sewer system in the above referenced subdivision are hereby accepted into the maintenance system of the Board, subject only to final acceptance of all other subdivision improvements by the City of Madison.

[Signature]
Board Chairman

**ENGINEERING CERTIFICATION
FOR THE CITY OF MADISON**

This is to certify that the streets, curbs and gutters, and other required subdivision improvements lying within the above-referenced subdivision, are complete, free from defect, and have been constructed in accordance with approved plans and specifications and applicable construction standards of the City of Madison within dedicated easements and/or rights-of-way.

This certification is based on inspections and investigations of the engineer and shall not constitute an express or implied warranty or guarantee of the improvements.

It is understood by the undersigned consulting engineer(s) that representatives of the City of Madison will rely on this certification in determining whether to recommend acceptance of the above-said improvements into the maintenance programs of the City.

Date: 7/27/22

Consulting Engineer(s): LANDMARK ENGINEERING

Address: 3440 38th Ave., Suite 4 Moline, IL 61265

By: [Signature]


**THE CITY OF MADISON &
WATER AND WASTEWATER BOARD OF THE CITY OF MADISON
APPLICATION FOR ACCEPTANCE AND DEDICATION OF
SUBDIVISION IMPROVEMENTS**

Subdivision: _____

Plat Book: _____ Page: _____ or Document # _____

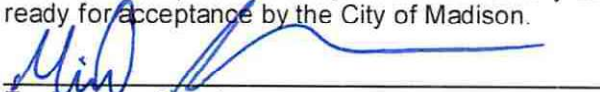
Probate Records of _____ County, Alabama

Subdivision improvements in the above-referenced subdivision (other than sanitary sewer system accepted by the Water and Wastewater Board) have passed inspection and are hereby recommended for acceptance into the maintenance program of the City of Madison.



City Inspector

All required construction plans, bonds, and other documents and certifications have been submitted and the subdivision improvements (other than sanitary sewer system accepted by the Water and Wastewater Board) are ready for acceptance by the City of Madison.



Engineering Director

Upon affirmative vote of the City Council of the City of Madison on this the _____ day of _____, _____, dedicated subdivision improvements in the above-referenced subdivision are hereby accepted into the maintenance system of the City of Madison.

Council President

Mayor

Trustmark National Bank
International Operations
248 East Capitol Street
Jackson, Mississippi 39201
Telephone: 601/208-5887
Fax: 601/208-2387

Irrevocable Standby Letter of Credit No. 22-075-SP

Issue Date:
October 10, 2022

Expiry Date:
November 10, 2024

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

Applicant:
Diltina Development Corporation
7545-A US Hwy 72 W
Madison, AL 35758

Amount: US\$226,916.70

Subdivision: Bellawoods Phase 1

Place of Expiry: At the counters of Trustmark National Bank,
248 East Capitol Street, Jackson, MS, 39201, USA.

Gentlemen:

We hereby establish our Irrevocable Standby Letter of Credit No. 22-075-SP in favor City of Madison for the account of Diltina Development Corporation for the purpose of securing a Maintenance Bond for Subdivision Improvements submitted by Diltina Development Corporation as a condition for acceptance of the referenced subdivision into the City's Maintenance Program. This Letter of Credit shall be valid up to the amount stated above. It shall be available by your DRAFTS AT SIGHT drawn on Trustmark National Bank, Jackson, Mississippi, USA, bearing the clause "Drawn under Trustmark National Bank, Jackson, Mississippi Letter of Credit No. 22-075-SP dated October 10, 2022" and accompanied by the following:

- A statement purportedly signed by an authorized official of the City of Madison stating as follows:
- "We hereby certify that the referenced subdivision improvements are defective or in need of repair and that Diltina Development Corporation has been given a reasonable opportunity to cure such defects or make such repairs, yet has failed to do so. Funds drawn under the attached Letter of credit and received from Trustmark National Bank will be used to cure such defects or make such repairs."
- The original of this Letter of Credit and any amendments thereto.

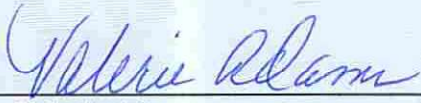


Page Two of Two
October 10, 2022
Letter of Credit No. 22-075-SP

We hereby engage with bona fide holders that drafts drawn strictly in compliance with the terms of this Letter of Credit and any amendments thereto on or before the close of business on the referenced expiration date will be duly honored on presentation and delivery of documents as specified to us at the address listed above.

Except so far as otherwise expressly stated, this Letter of Credit is subject to the "International Standby Practices" ("ISP98") International Chamber of Commerce Publication 590. As to matters not governed by the ("ISP98"), this credit is subject to the laws of the State of Alabama.

Yours very truly,
Trustmark National Bank
Jackson, Mississippi, USA

By: 
Valerie Adams
Vice President

RESOLUTION NO. 2022-273-R

**A RESOLUTION AUTHORIZING AN AGREEMENT WITH LOCALITY MEDIA, INC.
FOR SUBSCRIPTION TO FIRST DUE SOFTWARE**

WHEREAS, the City of Madison has determined that Locality Media, Inc. is the sole source of software for automated preplans, incident reporting and inventory services that meets NEMSIS standards for our Fire Department; and

WHEREAS, the State of Alabama requires the Madison City Fire Department to maintain NEMSIS compliant software as an Advanced Life Support Department;

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that the Mayor is authorized and directed to accept on behalf of the City a pricing proposal from Locality Media, Inc. for automated preplans, incident reporting and inventory services software that meets NEMSIS standards and said pricing proposal is substantially similar in purpose, intent, and composition to that certain document attached (**Attachment A: Agreement for 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 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 appropriate department that the services precedent to payment have been satisfied, the Finance Director is hereby authorized to forward payment from the Fire Department's Budget for an amount not to exceed Twenty-Nine Thousand Eight Hundred Dollars (\$29,800.00) for the yearly subscription to the First Due software;

READ, PASSED, AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 10th day of October 2022.

Greg Shaw, Council President
City of Madison, Alabama

ATTEST:

Lisa D. Thomas, City Clerk-Treasurer

City of Madison, Alabama

APPROVED this 10th day of October 2022.

Paul Finley, Mayor
City of Madison, Alabama



AGREEMENT FOR SERVICES

This Agreement for Services (this "Agreement") dated as of **October 31, 2022** (the "Effective Date") is made by and between Locality Media, Inc dba First Due a Delaware corporation, having offices at 107 7th St, Garden City, NY, 11530 ("Locality Media") and the **Madison Fire & Rescue** located at **101 Mill Road, Madison, AL 35758** (the "Customer").

1. Locality Media maintains a website through which Customer members may access Locality Media's **First Due Size-Up™** Community Connect™, Mobile Responder™ and/or other software-as-a-service platforms and solutions identified in Exhibit A (collectively, the "Service") in connection with the performance of their Customer duties. Locality Media agrees to grant the Customer access to the Service pursuant to the terms and conditions set forth below and in Exhibit A, and the Customer agrees to use the Service only in strict conformity with and subject to such terms and conditions.
2. Locality Media may provide the Customer with one or more user ID's, initial passwords, digital certificates and/or other devices (collectively, "Credentials") and/or application programming interfaces ("APIs") to access the Service. The Customer shall access the Service only by using such Credentials and APIs. The Customer authorizes Locality Media to act on any instructions Locality Media receives from users of the Service who present valid Credentials and such individuals shall be deemed authorized to act on behalf of the Customer, including, without limitation, to change such Credentials. It is the Customer's sole responsibility to keep all Credentials and other means of access within the Customer's direct or indirect possession or control both confidential and secure from unauthorized use. The Customer understands the utility of the First Due Size Up Service depends on the availability of data and information relating to Locations and structures in the Customer's jurisdiction, including but not limited to building system and structural information, building inspection codes and incident report data (collectively, "Location Data"). Locality Media also may process and furnish through the Service, in addition to Location Data, other data regarding residents and roadways within the Customer's jurisdiction ("Community Data"). Location Data and Community Data are referred to collectively herein as "Data". Locality Media may acquire Data from third party public and/or private sources in Locality Media's discretion. In addition, the Customer will upload to the Service or otherwise provide to Locality Media in such form and using such methods as Locality Media reasonably may require from time to time, any and all Data from the Customer's records and systems which the parties mutually designate for inclusion in the Service database. The Customer agrees not to filter or alter such records except to conform such Data to the formats reasonably required by Locality Media. Subject to any third-party license restrictions identified expressly in writing by the Customer, the Customer grants to Locality Media a perpetual, non-exclusive, worldwide, royalty-free right and license to process, use and disclose the Data furnished to Locality Media by the Customer in connection with the development, operation and performance of Locality Media's business, including but not limited to the Service.
3. As between the parties, the Customer and its employees, contractors, members, users, agents and representatives (collectively, "Customer Users") are solely responsible for determining whether and how to use Data accessed through the Service. The Customer acknowledges that Locality Media, through the Service, provides an interface for viewing Data compiled from the Customer and other sources over which Locality Media has no control and for which Locality Media assumes no responsibility. Locality Media makes no representations or warranties regarding any Location or structure (including but not limited to a Location's safety, construction, occupancy, materials, hazards, water supply, contents, location, surrounding structures, exposures, size, layout, compliance, condition or history) , residents, roadways, or any actual or expected outcome from use of the Data, nor does Locality Media make any representation or warranty regarding the accuracy or reliability of the Data received by Locality Media. Locality Media provides administrative and information technology services only and does not advise, recommend, or render an opinion with respect to any information communicated through the Service and shall not be responsible for the Customer's or any third party's use of any information obtained through the Service.

4. The Customer shall obtain and maintain, at its own expense, computers, operating systems, Internet browsers, tablets, phones, telecommunications equipment, third-party application services and other equipment and software ("Equipment") required for the Customer to access and use the Service (the Service being accessible to users through standard Internet browsers subject to third party network availability and signal strength). Locality Media shall not be responsible for any problem, error or malfunction relating to the Service resulting from Customer error, data entry errors or malfeasance by the Customer or any third party, or the performance or failure of Equipment or any telecommunications service, cellular or wifi network, Internet connection, Internet service provider, or any other third-party communications provider, or any other failure or problem not attributable to Locality Media ("Technical Problems").
5. This Agreement will be effective for an initial term of **12 months** (the "Initial Term") commencing on the Effective Date. After the Initial Term, this Agreement will automatically renew for successive terms of **12 months** each (a "Renewal Term"), subject to the right of either party to cancel renewal at any time upon at least 60 days' written notice. Locality Media reserves the right to increase Customer's renewal Service fees by no more than **5%** per annum, applied to the Service fees set forth in the previous term. A renewal estimate will be provided to the Customer no less than 90 days before term expiration. Either party also may terminate this Agreement immediately upon written notice if the other party: (i) becomes insolvent; (ii) becomes the subject of a petition in bankruptcy which is not withdrawn or dismissed within 60 days thereafter; (iii) makes an assignment for the benefit of creditors; or (iv) materially breaches its obligations under this Agreement and fails to cure such breach within 30 days after the non-breaching party provides written notice thereof.
6. Upon termination, the Customer shall cease use of the Service and all Credentials then in the Customer's possession or control. This Section 6 and Sections 8 through 11 and 15 through 25 hereof shall survive any termination or expiration of this Agreement.
7. The Customer agrees to pay the fees set forth in Exhibit A for use of those Service features described in Exhibit A (as available as of the Effective Date). Locality Media may charge separately for services offered from time to time that are not included in the scope of Exhibit A (such as new Service features, systems integration services and applications of the Service for new purposes), subject to the Customer's acceptance of the terms of use and fees associated with such services. The Customer shall be responsible for the payment of all taxes associated with provision and use of the Service (other than taxes on Locality Media's income). The Customer represents it has not received and agrees that it shall not collect any fee, payment or remuneration of any kind from any Data provider, other municipal agency or other third party in connection with the Customer's purchase or use of the Service under this Agreement.
8. Locality Media owns and shall retain all right, title, and interest in and to the Service, all components thereof, including without limitation all related applications, APIs, user interface designs, software and source code (which shall further include without limitation any and all source code furnished by Locality Media to the Customer in connection with the delivery or performance of any services hereunder) and any and all future enhancements or modifications thereto howsoever made and all intellectual property rights therein but not Data furnished by the Customer. Except as expressly provided in this Agreement or as otherwise authorized in advance in writing by Locality Media, the Customer and Customer Users shall not copy, distribute, license, reproduce, decompile, disassemble, reverse engineer, publish, modify, or create derivative works from, the Service; provided, however, that nothing herein shall restrict the Customer's use of the Data that the Customer has provided.
9. "Confidential Information" means any and all information disclosed by either party to the other which is marked "confidential" or "proprietary," including oral information that is designated confidential at the time of disclosure. Without limiting the foregoing, all information relating to the Service and associated software and the terms of this Agreement shall be deemed Locality Media's Confidential Information. Notwithstanding the foregoing, "Confidential Information" does not include any information that the receiving party can demonstrate (i) was known to it prior to its disclosure hereunder; (ii) is or becomes publicly known through no wrongful act of the receiving party; (iii) has been rightfully received from a third party authorized to make such disclosure without restriction; (iv) is independently developed by the receiving party, without the use of any Confidential Information of the other party; (v) has been approved for release by the disclosing party's prior written authorization; or (vi) is required to be

disclosed by court order or applicable law, provided that the party required to disclose the information provides prompt advance notice thereof to the other party (except to the extent such notice is prohibited by law).

10. Each party hereby agrees that it shall not use any Confidential Information belonging to the other party other than as expressly permitted under the terms of this Agreement or as expressly authorized in writing by the other party. Each party shall use the same degree of care to protect the other party's Confidential Information as it uses to protect its own confidential information of like nature, but in no circumstances with less than reasonable care. Neither party shall disclose the other party's Confidential Information to any person or entity other than its employees, agents or consultants who need access thereto in order to effect the intent of this Agreement and in each case who have been advised of the confidentiality provisions of this Agreement, have been instructed to abide by such confidentiality provisions, entered into written confidentiality agreements consistent with Sections 9-11 or otherwise are bound under substantially similar confidentiality restrictions.
11. Each party acknowledges and agrees that it has been advised that the use or disclosure of the other's Confidential Information inconsistent with this Agreement may cause special, unique, unusual, extraordinary, and irreparable harm to the other party, the extent of which may be difficult to ascertain. Accordingly, each party agrees that, in addition to any other remedies to which the nonbreaching party may be legally entitled, the nonbreaching party shall have the right to seek to obtain immediate injunctive relief, without the necessity of posting a bond, in the event of a breach of Section 9 or 10 by the other party, any of its employees, agents or consultants.
12. LOCALITY MEDIA REPRESENTS AND WARRANTS THAT IT SHALL USE COMMERCIALY REASONABLE EFFORTS TO PROVIDE THE SERVICE WITHOUT INTRODUCING ERRORS OR OTHERWISE CORRUPTING DATA AS SUBMITTED BY THE CUSTOMER. OTHER THAN THE FOREGOING, THE SERVICE, INCLUDING ALL DATA, IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, LOCALITY MEDIA MAKES NO WARRANTY THAT THE SERVICE WILL BE UNINTERRUPTED, ERROR FREE OR AVAILABLE AT ALL TIMES, NOR DOES LOCALITY MEDIA WARRANT THAT THE SERVICE WILL REMAIN COMPATIBLE WITH, OR OPERATE WITHOUT INTERRUPTION ON, ANY EQUIPMENT OF THE CUSTOMER OR CUSTOMER USERS.
13. EXCEPT AS SET FORTH ABOVE IN SECTION 12, LOCALITY MEDIA MAKES AND THE CUSTOMER RECEIVES NO WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE SUBJECT MATTER HEREOF. LOCALITY MEDIA SPECIFICALLY DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT WITH RESPECT TO THE SUBJECT MATTER HEREOF, INCLUDING WITHOUT LIMITATION THE SERVICE.
14. The Customer represents and warrants that the Customer is authorized and has all rights necessary to enter into this Agreement, to provide the Data furnished by the Customer to Locality Media, and to use the Service and Data, and Customer will only use the Service and Data, as permitted under this Agreement and in accordance with the laws, regulations and any third-party agreements applicable to the Customer and Customer Users. Without limiting the generality of the foregoing, Customer shall not cause or permit any Data to be uploaded to the Service or used in connection with the Service in any manner that would violate any third-party intellectual property rights or license between Customer and any third party. Customer agrees not to use or permit the use of the Service and Data in connection with any public or private enterprise other than operation and performance of the Customer's functions and services. In addition, the Customer and the Customer Users shall not copy, distribute, license, reproduce, publish, modify or otherwise use any Personally Identifiable Information (PII) contained within the Data accessed through the Service for any purpose other than to lawfully carry out the services and duties of the Customer. The Customer shall remain responsible for the performance, acts and omissions of each Customer User as if such activities had been performed by the Customer.
15. Locality Media will indemnify, defend and hold harmless the Customer from and against any and all damages, liabilities, losses, costs and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "Losses") resulting from any third-party claim, suit, action, investigation or proceeding (each, an "Action") brought against the Customer based on the infringement by Locality Media of any third-party issued patent, copyright or registered trademark, except to the extent such Action is based on Data furnished from the Customer, the Customer's breach of any third party agreement, or any combination or integration of the Service with any Customer- or third-party property, method or system.

16. The Customer will indemnify, defend and hold Locality Media harmless from and against any and all Losses arising from or relating to: (i) any breach by the Customer of Section 8; or (ii) any Action by a Customer User or third party arising from or relating to the use of the Service or Data accessed through the Service, except to the extent such Losses are subject to Section 15 above or result from the gross negligence or willful misconduct of Locality Media.
17. Such indemnification under Sections 15 and 16 will be provided only on the conditions that: (a) the indemnifying party is given written notice reasonably promptly after the indemnified party receives notice of such Action; (b) the indemnifying party has sole control of the defense and all related settlement negotiations, provided any settlement that would impose any monetary or injunctive obligation upon the indemnified party shall be subject to such party's prior written approval; and (c) the indemnified party provides assistance, information and authority as reasonably required by the indemnifying party.
18. EXCEPT FOR ITS INDEMNIFICATION OBLIGATIONS IN SECTION 15, AND EXCEPT FOR CLAIMS OF GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD, LOCALITY MEDIA SHALL NOT BE LIABLE TO THE CUSTOMER OR CUSTOMER USERS FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SERVICES OR DATA, EVEN IF THE CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR ITS INDEMNIFICATION OBLIGATIONS IN SECTION 15, AND EXCEPT FOR CLAIMS OF GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD, LOCALITY MEDIA SHALL NOT BE LIABLE TO THE CUSTOMER OR CUSTOMER USERS FOR ANY DAMAGES IN CONNECTION WITH THIS AGREEMENT IN EXCESS OF THE GREATER OF (A) THE AMOUNT OF FEES PAID OR PAYABLE BY THE CUSTOMER TO LOCALITY MEDIA WITHIN THE 12 MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY, OR (B) \$5,000.
19. All notices, requests, demands or consents under this Agreement must be in writing, and be delivered personally, by email or facsimile followed by written confirmation, or by internationally recognized courier service to the addresses of the parties set forth in this Agreement.
20. Except as otherwise provided below, neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party. Locality Media may assign this Agreement or any rights or obligations hereunder to any Locality Media affiliate or in connection with the merger or acquisition of Locality Media or the sale of all or substantially all of its assets related to this Agreement, without such consent. This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns.
21. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.
22. Any modification, amendment or waiver to this Agreement shall not be effective unless in writing and signed by the party to be charged. No failure or delay by either party in exercising any right, power, or remedy hereunder shall operate as a waiver of such right, power, or remedy.
23. The parties are independent contractors with respect to each other, and neither shall be deemed an employee, agent, partner or legal representative of the other for any purpose or shall have any authority to create any obligation on behalf of the other. Neither party intends to grant any third-party beneficiary rights as a result of this Agreement.
24. Any delay in or failure of performance by either party under this Agreement will not be considered a breach and will be excused to the extent caused by any event beyond the reasonable control of such party including, but not limited to, acts of God, acts of civil or military authorities, strikes or other labor disputes, fires, interruptions in telecommunications or Internet or network provider services, power outages, and governmental restrictions.
25. This Agreement supersedes all prior agreements, understandings, representations, warranties, requests for proposal and negotiations, if any. Each provision of this Agreement is severable from each other provision for the purpose of determining the enforceability of any specific provision.

26. Agreement Billing Information

a. **Accounts Payable Contact**

Name: _____

Email: _____

Phone: _____

b. **Tax Exempt** _____ (Yes/No)

If Yes, please email a copy of the Exempt Certificate to accounting@firstdue.com.

c. **Purchase Order Required** _____ (Yes/No)

If Yes, return a copy of the Purchase Order with the signed agreement or email a copy to accounting@firstdue.com.

LOCALITY MEDIA, INC.

Madison Fire & Rescue

By: _____

Name: Andreas Huber

Title: CEO

Date: _____

By: _____

Name: _____

Title: _____

Date: _____



Locality Media, Inc. dba First Due
 107 Seventh St
 Garden City, New York, 11530, United States
 Phone: +1 (516) 874-2258
 Website: <https://www.firstdue.com/>

Exhibit A - Quote

Prepared By: Amber Wade
 Valid Until: November 30, 2022
 Quote Number: 1545132000100835913

BILL TO:

Richard Ennis
 Madison Fire & Rescue
 101 Mill Road
 Madison, AL 35758

Account: Madison Fire & Rescue
Subscription Start: October 31, 2022
Initial Term: 12 months
Annual Subscription: \$29,800.00

Product Details	Total
Occupancy Management & Pre-Incident Planning	
Manage Occupancies, Hydrants, Pre-Incident Mapping, GIS data, Fire Systems, Hazardous Material, and Contacts.	
Responder	
Web Responder dashboard and Responder iOS/Android App with notifications, statusing and routing.	
Inspections	
Field Inspections, Configurable Checklists, Violation Management, Virtual Inspections, Inspections Scheduler, and Integrated Pre-Incident Planning.	
Incident Reporting – NFIRS	
NFIRS Incident Documentation, State and Federal Compliance with automated submission.	
Incident Reporting – ePCR	
ePCR Incident Documentation, State and Federal Compliance with automated submission.	
Scheduling	
Manage staff schedules with an interactive shift board, configurable call shifts module, messaging, time-off and shift trades.	
Personnel Management	
Store, Manage and Access Employee Records including demographic data, certifications and employment information.	
Events & Activities	
Create Events, View Global Activity Log, and Access Global Calendar.	
Assets & Inventory	
Assets, equipment and inventory management, assets and equipment checks, and work order management.	
CAD Integration	
Automated importing of CAD calls via XML, Database Connector or API.	

Implementation and Configuration Services

Services related to configuring and customizing the First Due Platform as described in the Statement of Work.

One-Time Fees Subtotal	\$ 0.00
Subscription Fees Subtotal	\$ 29,800.00
Grand Total	\$ 29,800.00

Statement of Work

Please see attached Statement of Work detailing the Implementation, Training and Support for this Exhibit A – Quote.

Terms and Conditions

The above-listed Grand Total will be invoiced on or around the Subscription Start date. For subsequent annual periods, the Service fees are due and payable annually in advance.

Payment Terms: Net 30 days

For electronic ACH payment: JPMorgan Chase Bank | ABA Routing: 021000021 | Account #: 803527972



Locality Media, Inc. dba First Due
107 Seventh St
Garden City, New York, 11530, United States
Phone: +1 (516) 874-2258
Website: <https://www.firstdue.com/>

Statement of Work
For Quote Number: 1545132000100835913

Statement of Work | Madison Fire & Rescue

Introduction

The purpose of this Statement of Work (SoW) document is to clearly define the Implementation, Training and Support.

1. Implementation:

First Due works very closely with you to ensure the application is ready for go-live. During the Implementation you will be assigned a Client Success Manager and Implementation Manager who will lead you through the process. Below is a description of each component of our implementation.

- a) **Discovery & Planning:** During a project kick-off meeting we will flesh out the key components of the configuration, customer stakeholders and project timelines. After this stage we will have a clear plan to when and how your agency will be live with First Due.
- b) **Configuration:** First Due is an out-of-the box system but can be configured for your Agency's needs. Our team will work with you to configure all the parts of the application necessary for go-live and beyond. These configuration sessions will generally occur weekly, and also act as administrator training.
- c) **Optimization:** Once the account is configured, we will arrange a small end-user testing group to begin to use the application out-in-the-field. This is an iterative process in which we listen to feedback and make adjustments to the product on the fly.
- d) **Training:** Once we have sign-off the product is ready for go-live we will build the necessary training plan together, which may include train-the-trainer sessions, end user training, custom training videos/content or even onsite sessions. The training section below provides more detail on included training.
- e) **Roll Out:** After training is complete, we are ready to roll-out the platform. We will work closely with you to ensure First Due is rolled out effectively across your agency.
- f) **Support:** Once we achieve sign-off that the system is live and stable, we will transition to support (as described in the support section below). However, you will continue to have a dedicated Client Success Manager moving forward.

2. Training:

Training is an integral part of any successful implementation. First Due is focused on providing your agency adequate training to ensure effective user adoption of the platform. As part of this Statement of Work, the customer will receive training throughout the implementation process as outlined below:

- 1. Webinar Administrator training during configuration sessions as needed
- 2. Webinar formal Train-the-Trainer Session(s) during the training phase as needed
- 3. Access to online training videos, documents, content and interactive knowledgebase

3. Integrations:

Any scoped integrations included in this document will be described below. Any additional integration scoped at a later date will be provided in a separate SoW at that time.

4. Data Migration:

First Due understands the importance of data migration to our customers and has extensive experience working to migrate historical records into the platform. First Due will use best efforts to migrate applicable data from Customer's existing systems utilizing data migration best practices. This includes:

1. Data Migration Planning Session
2. Assistance/Guidance in extracting data from existing system/s
3. Mapping extracted data to First Due import workbooks
4. Importing of Data into First Due

5. Support:

First Due provides Support as part of the base subscription. This includes:

1. Email, Phone, Ticketing System Support Channels and Live Chat
2. Dedicated Client Success Manager
3. Access to knowledge base including online training videos and FAQs



October 4, 2022

Madison Fire & Rescue
101 Mill Road
Madison, AL, 35758

RE: First Due is the sole source for fire & life safety-based automated pre-plans, fire prevention, incident reporting, scheduling, personnel, events, and assets and inventory services for Madison Fire & Rescue.

To Whom It May Concern,

Locality Media Inc dba First Due provides end-to-end support for fire/EMS services, fulfilling the identified needs and requirements set forth by Madison Fire & Rescue. **This software is exclusively owned by Locality Media, Inc. and we are the sole provider of this solution.** We offer:

- A best-of-breed Pre-Incident Planning solution to collect data and create comprehensive pre-plans in the field, and even automatically create pre-plans on every structure by interfacing with data sources such as the assessor's office and the building department.
- A comprehensive Fire Prevention module, including customizable inspection checklists, code management, invoicing, permits, virtual inspections, integrated pre-planning, investigations and more.
- A complete Mobile Responder, tied to dispatch, so crews can access critical information at the time of response, as well as be notified en-route to the call, all on web, iOS, and Android.
- An Incident Reporting platform with automated NFIRS, ePCR, and NFORS reporting.
- Best-of-breed, fully integrated Scheduling and Personnel Management with flexible shift board, time-off, call shifts, messaging and more.
- Asset and Inventory Management with real-time insight and statistics into apparatus & equipment health, usage, and compliance, seamlessly linked to First Due Scheduling, Incident Reporting & more.
- An interactive Events module fully aligned with Scheduling to keep your agency's scheduling aligned.
- CAD integration

All components of our platform are designed, produced and sold exclusively by First Due in New York, New York. For more information, please visit www.firstdue.com.

Andreas Huber
CEO | First Due
107 Seventh St
Garden City, NY 11530

888.504.0016
FirstDue.com

RESOLUTION 2022-268-R**A RESOLUTION TO AMEND RESOLUTION NO. 2022-198-R PREVIOUSLY
ADOPTED BY THE COUNCIL FOR THE TERMINATION OF AN AGREEMENT
BETWEEN THE CITY OF MADISON AND TURNER CONSTRUCTION**

**Resolution 2022-198-R adopted by the City Council of Madison, Alabama
on July 11th, 2022 is hereby amended to provide as follows:**

WHEREAS, on October 25, 2021, pursuant to Resolution No. 2021-310-R, the City of Madison entered into an agreement with Turner Construction Company for the provision of construction management services for the renovation of the Three Springs Property; and

WHEREAS, the Mayor or his designee shall be hereby authorized, but not required, to terminate the agreement with Turner Construction Company. The contract is being terminated at the convenience of the City. In all respects, Resolution No. 2021-310-R will remain in full force and effect; and

WHEREAS, the City has submitted a notice of termination to Turner Construction Company pursuant to the agreement; and

WHEREAS, the termination of the referenced agreement shall have no effect on Turner Construction and its ability to perform other contracts with the City of Madison;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
MADISON, ALABAMA**, that the Mayor, or his designee, is hereby authorized to proceed with a termination of the agreement.

READ, APPROVED, and ADOPTED this 10th day of October 2022.

ATTEST:

*Greg Shaw, Council President
City of Madison, Alabama*

Lisa D. Thomas, City Clerk-Treasurer

APPROVED this _____ day of October 2022.

*Paul Finley, Mayor
City of Madison, Alabama*

RESOLUTION NO. 2022-269-R

**A RESOLUTION AUTHORIZING ACCEPTANCE OF PROPOSAL FOR
CATASTROPHIC INMATE MEDICAL INSURANCE
FROM HUNT INSURANCE GROUP, LLC**

WHEREAS, the City of Madison is required to pay for medical expenses of City inmates housed at the Madison County Detention Facility when they receive treatment from medical providers outside of the Detention Facility; and

WHEREAS, the City Council of the City of Madison desires to purchase insurance to cover costs related to major health procedures for City inmates;

BE IT HEREBY RESOLVED by the City Council that the Mayor is authorized to execute a proposal and agreement for Catastrophic Inmate Medical Insurance from Hunt Insurance Group, LLC, 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 appropriate department that the services precedent to payment have been satisfied, the Finance Director is hereby authorized to forward payment 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 10th day of October 2022.

ATTEST:

Greg Shaw, Council President
City of Madison, Alabama

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

APPROVED this _____ day of October 2022.

Paul Finley, Mayor
City of Madison, Alabama



Date of Proposal: September 27, 2022
 Proposed Insured: City of Madison
 City, State: Madison, AL
 Facilities Include: Madison County Detention Center
 Issuing Company: Sirius America Insurance Company, A.M. Best Rating "A-" Excellent
 Coverage Type: Limited Health Expense Benefits - provided outside the walls of the facility, or facilities, listed above and as outlined in the Insurance Policy.
 Policy Form: Stop-Loss
 Effective Date: October 1, 2022
 Number of Inmates: 18

Current/Expiring

Specific Coverage:	Option 1	Option 2	
Per Inmate Deductible:	\$5,000	\$5,000	
Per Inmate Coverage Limit:	\$250,000 (In Excess of Deductible)	\$250,000 (In Excess of Deductible)	
Policy Maximum:	\$1,000,000	\$1,000,000	
Rate Per Inmate Per Month:	N/A	N/A	
Covered Expenses:	Eligible Medical Services shall accumulate to satisfy the Per Inmate Deductible as outlined below and be reimbursed at the following:		
In-Patient Hospital Services:	Lesser of the Amount Paid or 45% of Eligible Billed Charges	The Repriced Amount Under the OMCCP. OMCCP fees based on a percentage of savings are eligible for reimbursement up to \$25,000 per inmate.	
Outpatient Hospital Services:			
Physician Services:	Lesser of the Amount Paid or 150% of Medicare		
Outpatient Diagnostic and Lab Services:			
Ambulance Services:	Limited to those provided and administered during a Hospital Stay		
Medical Services and Supplies:			
Dialysis:	Included	Included	
Prescription Drugs:			
Benefits/Exclusions:	Excluded	Excluded	
Prior-to-Booking/In-Pursuit:			
Security & Guarding:	Excluded	Excluded	
Dental:			
HIV/AIDS:	Included	Included	
Pregnancy:			
Specialty Drugs:	Included (Inmate Only)	Excluded	
Substance Abuse:			
Mental and Nervous Disorders:	Inpatient Hospitalization charges only; charges incurred at institutions providing specialized treatment, long-term care, or rehabilitation are excluded from coverage		
Total Annual Premium:	\$8,415.36	\$6,732.72	

Terms and Conditions

- This proposal is based on data submitted and other information furnished relevant to underwriting the risk, including all claims or possible claims, paid, pending, or denied pending additional information, or which the prospective insured or authorized representative should otherwise be aware of.
- Any inaccuracy in the data submitted or failure to disclose any such information can change the terms, conditions, rates, or factors of this offer or can void offer and coverage.
- Claim Provisions: From: To:
 - Claims Incurred: 10/01/2022 09/30/2023
 - Claims Reported: 10/01/2022 03/31/2024
 - Claims Submitted: 10/01/2022 03/31/2024
- This proposal is valid for the stated effective date shown above provided the prospective insured or its authorized representative elects one of the above options by 9/30/2022, by submitting a signed application, which will be provided after your selection is made. Until we obtain the signed application, the rates and factors are subject to change as additional information is received.
- Acceptance of this quote is contingent upon and subject to the actual terms of the policy as issued, which occurs upon binding and premium payment. If there is any conflict between this quote and the policy, the policy will govern in all cases.

Desired Coverage (check one): ☒ Option 1 ☐ Option 2

Paul Finley
Printed Name

Mayor
Title

9/30/2022
Date

Signature



Catastrophic Inmate Medical Insurance Administered by Hunt Insurance Group, LLC

2075 Center Pointe Blvd, Ste. 101, Tallahassee, FL 32308 ☎ Toll-Free (800) 763-4868 ☎ huntbenefits@huntins.com ☎ www.inmatemedicalinsurance.com

© 2022 Hunt Insurance Group LLC. The precise coverage afforded is subject to the terms, conditions and exclusions of the actual policies as issued by the insurance company. This document and all its contents are CONFIDENTIAL and PROPRIETARY and cannot be replaced, disclosed or duplicated to any third party without the prior, written consent of Hunt Insurance Group, LLC.

ORDINANCE NO. 2022-260

AN ORDINANCE FOR THE VACATION OF A UTILITY AND DRAINAGE EASEMENT LOCATED WITHIN WILLOW CREEK 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 Nathan James Pierluissi, requesting the vacation of utility and drainage easement located within Lot 81 of Willow Creek, Phase 3, Part 1 and further described as follows:

STATE OF ALABAMA
COUNTY OF MADISON

ALL THAT PART OF LOT 81, ACCORDING TO THE MAP OR PLAT OF WILLOW CREEK, PHASE 3, PART 2, A RESUBDIVISION OF TRACT A OF WILLOW CREEK, PHASE 3, PART 1 (DOC. NO. 2019-00003077), A RESUBDIVISION OF TRACT A OF WILLOW CREEK, PHASE 2, A RESUBDIVISION OF TRACT A OF WILLOW CREEK, A RESUBDIVISION OF TRACT 1 OF MARVIN STEWART PHASE 1 (DOC. NO. 20150622000331800) DOCUMENT NO. 20161229000742250 (and corrected by Surveyor's Affidavit recorded as DOC. #201701050000008380) AND A RESUBDIVISION OF TRACT 2 OF MARVIN STEWART, PHASE 2, A RESURVEY OF TRACT 2 MARVIN STEWART PHASE 1 (DOC. #20150622000331800) RECORDED AS DOCUMENT NO. 20160623000345830, AS RECORDED IN DOCUMENT NO. 2019-00027666, PROBATE RECORDS, MADISON COUNTY, ALABAMA. PARTICULARLY DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 81 AND BEING ON THE EAST RIGHT OF WAY MARGIN OF COACH LAMP DRIVE; THENCE LEAVING SAID ROAD, NORTH 89 DEGREES 17 MINUTES 10 SECONDS EAST 130.00 FEET; THENCE SOUTH 00 DEGREES 43 MINUTES 33 SECONDS EAST 5.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT.

THENCE FROM THE POINT OF BEGINNING NORTH 89 DEGREES 17 MINUTES 10 SECONDS EAST 40.00 FEET; THENCE SOUTH 00 DEGREES 43 MINUTES 33 SECONDS EAST 90.00 FEET; THENCE SOUTH 89 DEGREES 17 MINUTES 10 SECONDS WEST 40.00 FEET; THENCE NORTH 00 DEGREES 43 MINUTES 33 SECONDS WEST 90.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 3,600 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 the **Nathan James Pierluissi**, and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same.

*Ordinance 2022-260
Vacation of Easement – Willow Creek Subdivision
Page 1 of 2*

READ, PASSED, AND ADOPTED this ____ day of October 2022.

Greg Shaw, Council President
City of Madison, Alabama

ATTEST:

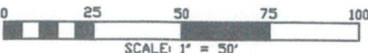
Lisa Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this ____ day of August, 2022.

Paul Finley, Mayor
City of Madison, Alabama

223 Coach Lamp Dr.

SURVEY FOR: <u>JEFF BENTON HOMES, INC.</u>		DATE FIELD: <u>7-3-19</u>		HILL LAND SURVEYING INC. WILLIAM T. HILL, JR. 133 FEATHERSTONE LANE OWENS CROSS ROADS, AL 35763 W.O. NO. 19-0507 256-337-6102 534-8555 FAX
REQUESTED BY: <u>MR. CHRIS BUTLER</u>		DATE OFFICE: <u>7-16-19</u>		
TYPE OF SURVEY: <u>FOUNDATION</u> FILE: <u>WILLOW CREEK PHASE 3</u>				



COACH LAMP DRIVE

PLAT S 00°43'33" E 100.00'
S 00°44'24" E 99.91'

PLAT S 00°43'33" E 100.00'
S 00°43'22" E 100.01'

15' PUDE
25' FSL
5' PUDE
9.18'
S 89°18'28" W 215.81'
PLAT N 89°17'10" E 215.83'

26.10'
677.29
677.28
BLOCK & FILL FOUNDATION
677.28
677.26
14.72'
PLAT N 89°17'10" E 229.86'
N 89°17'31" E 229.85'

80

82

81

ZONE X

ZONE X-SHADED
ZONE AE

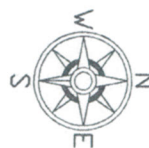
FLOODWAY

PLAT N 07°15'26" E 100.94'
PLAT N 07°15'38" E 100.98'

STATE OF ALABAMA
MADISON COUNTY

ZONE AE

NOTE: THE REFERENCE BEARING IS GRID NORTH AS ESTABLISHED BY SURVEY GRADE GPS EQUIPMENT.



GRID NORTH
AL STATE
PLANE EAST
ZONE NAD
1983

DELIVERED TO PERMITTING

JUL 17 2019

Received By
Allison Still

OK saw
OK AS
07-17-2019

THIS IS A TRUE AND CORRECT SURVEY OF LOT 81 OF WILLOW CREEK, PHASE 3, PART 2, A RESUBDIVISION OF TRACT A OF WILLOW CREEK, PHASE 3, PART 1 (DOC#2019-3077) A RESUBDIVISION OF TRACT A OF WILLOW CREEK PHASE 2, A RESUBDIVISION OF TRACT A OF WILLOW CREEK, A RESUBDIVISION OF TRACT 1 OF MARVIN STEWART PHASE 1 (20150622000331800) DOCUMENT NUMBER 20161229000742250 (AND CORRECTED BY SURVEYOR'S AFFIDAVIT RECORDED AS DOC#20170105000008380) AND A RESUBDIVISION OF TRACT 2 OF MARVIN STEWART, PHASE 2, A RESURVEY OF TRACT 2 OF MARVIN STEWART PHASE 1 (DOC#20150622000331800) RECORDED AS DOCUMENT NO. 20160623000345830, SAID PLAT NOW RECORDED AS DOCUMENT NUMBER 2019-00027666 IN THE PROBATE RECORDS OF SAID COUNTY. THE CORRECT STREET ADDRESS IS 223 COACH LAMP DRIVE, MADISON, ALABAMA.

LEGEND

PUDE PUBLIC UTILITY AND DRAINAGE EASEMENT

C.T. CRIMPED IRON PIPE

R.B. REBAR

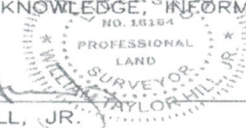
— FENCELINE

● CONCRETE MONUMENT

○ CAPPED 1/2" REBAR SET

● IRON MONUMENT

I HEREBY STATE THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR SURVEYING IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.


 WILLIAM T. HILL, JR.
 AL REG. NO. 16164

7-16-19
DATE

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 **Nathan James Pierluissi**, (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
CCOUNTY OF MADISON

ALL THAT PART OF LOT 81, ACCORDING TO THE MAP OR PLAT OF WILLOW CREEK, PHASE 3, PART 2, A RESUBDIVISION OF TRACT A OF WILLOW CREEK, PHASE 3, PART 1 (DOC. NO. 2019-00003077), A RESUBDIVISION OF TRACT A OF WILLOW CREEK, PHASE 2, A RESUBDIVISION OF TRACT A OF WILLOW CREEK, A RESUBDIVISION OF TRACT 1 OF MARVIN STEWART PHASE 1 (DOC. NO. 20150622000331800) DOCUMENT NO. 20161229000742250 (and corrected by Surveyor’s Affidavit recorded as DOC. #201701050000008380) AND A RESUBDIVISION OF TRACT 2 OF MARVIN STEWART, PHASE 2, A RESURVEY OF TRACT 2 MARVIN STEWART PHASE 1 (DOC. #20150622000331800) RECORDED AS DOCUMENT NO. 20160623000345830, AS RECORDED IN DOCUMENT NO. 2019-00027666, PROBATE RECORDS, MADISON COUNTY, ALABAMA. PARTICULARLY DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 81 AND BEING ON THE EAST RIGHT OF WAY MARGIN OF COACH LAMP DRIVE; THENCE LEAVING SAID ROAD, NORTH 89 DEGREES 17 MINUTES 10 SECONDS EAST 130.00 FEET; THENCE SOUTH 00 DEGREES 43 MINUTES 33 SECONDS EAST 5.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT.

THENCE FROM THE POINT OF BEGINNING NORTH 89 DEGREES 17 MINUTES 10 SECONDS EAST 40.00 FEET; THENCE SOUTH 00 DEGREES 43 MINUTES 33 SECONDS EAST 90.00 FEET; THENCE SOUTH 89 DEGREES 17 MINUTES 10 SECONDS WEST 40.00 FEET; THENCE NORTH 00 DEGREES 43 MINUTES 33 SECONDS WEST 90.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 3,600 SQUARE FEET, MORE OR LESS.

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 October, 2022.

Quitclaim Deed
Willow Creek Subdivision, U&D VOE
Page 1 of 2

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 October 2022.

Notary Public

RESOLUTION NO. 2022-264-R

A RESOLUTION AUTHORIZING DEVELOPMENT AGREEMENT WITH MCKINLEY HOMES US, LLC, ET AL

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, as follows:

Section 1. Findings of Fact; Definition of Terms

The City Council (the “Council”) of the City of Madison, Alabama (the “City”), upon evidence duly presented to and considered by it, does hereby find, determine, and declare that:

- (a) McKinley Homes US, LLC, (the “Developer”) has presented a proposal to the City for the construction of a phased residential and commercial development, donation and preservation of publicly accessible open space, and dedication of public right-of-way located on approximately 97.85 acres of land owned by M & G Holdings, LLC (the “Owner”) and located in the City of Madison (the “Project”).
- (b) Developer has submitted to the Council a Development Agreement (the “Development Agreement”), which will provide for some of the residential development in phases, with construction of the first phase of the townhome units and single family lots to begin no earlier than 2023, and no certificate of occupancy prior to July 1, 2024. The Development shall contain no more than 382 units, including townhome units, single family units and stacked flats.
- (c) The Project will comply with the West Side Master Plan, Parks and Recreation Master Plan, and City’s Growth Policy for Residential Development in that the proposed zoning designation is Traditional Neighborhood Development and the Project will donate 24.25 acres for a public park as well as preserve additional open space and develop approximately 33,000 square feet of commercial space. The Project will improve the city’s transportation network consistent with the Transportation Master Plan.
- (d) It is in the interest of the city that the City support the Project in order to provide additional public open space, recreation, and transportation facilities; increased tax revenues for the City; and additional economic development activity in the area.
- (e) Pursuant to Alabama Code Section 11-45-1, the City may adopt resolutions and ordinances to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the inhabitants of the municipality. The Project’s proposed road construction, the preservation, accessibility and donation of open space, the development of commercial space, as well as the pacing of the Development, all as provided for in the Development Agreement will promote the health, safety, and welfare of the residents of the city.

Section 2. Authorization of Development Agreement

The execution and delivery of, and the performance by the City under, the Development Agreement are hereby authorized and approved. The Mayor is authorized and directed to execute and deliver the Development Agreement on behalf of the City, said Development Agreement to be in substantially the form presented to the Council this date and identified as "Development Agreement," and the City Clerk-Treasure is hereby authorized to appropriately attest the same.

Section 3. Further Actions

The Mayor and City Clerk are hereby authorized and directed to execute, seal, attest, and deliver such other agreements, undertakings, documents, and certificates incidental or related to the Development Agreement and the actions contemplated within it, and to take such other actions as shall be necessary and appropriate to carry out the transactions that this Resolution contemplates.

READ, PASSED, AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 10th day of October, 2022.

Greg Shaw, Council President
City of Madison, Alabama

ATTEST:

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

Approved this 10th day of October, 2022.

Paul Finley, Mayor
City of Madison, Alabama

DEVELOPMENT AGREEMENT

by and between

THE CITY OF MADISON

and

MCKINLEY HOMES US, LLC, ET AL.

Dated: _____, 2022

DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is made and entered into on and as of this ____ day of _____, 2022 (the “Effective Date”), by and between the CITY OF MADISON, a municipal corporation organized under the laws of the State of Alabama (the “City”), and MCKINLEY HOMES US, LLC, a Georgia limited liability company, and its respective successors and assigns (both “Developer” and “Builder” and collectively the “Company”), and M & G HOLDINGS, LLC, an Alabama limited liability company (the “Owner”). The City, the Company, and the Owner are herein referred to collectively from time to time as the “Parties” and individually, from time to time, as a “Party”.

WITNESSETH

WHEREAS, the Company has an agreement to purchase from Owner that certain tract of real property, being and lying within Madison, Limestone County, Alabama, consisting of approximately 97.85 acres, more or less, and being more particularly described in Exhibit “A” attached hereto (the “Property” or “Development Site”), upon which the Company plans to design, develop, and construct a multi-phase neighborhood mixed use subdivision to be developed and constructed in general conformity with Exhibit “B” attached hereto and to be known as “Madison Farms” or “Madison Farms” (the “Subdivision” or “Development”); and

WHEREAS, the Owner in cooperation with the City and the Developer plans to convey and/or donate approximately 24.25 acres, more or less, to the City of Madison, as further depicted in Exhibit “B” attached hereto, for use as park space, open green space, and/or recreational space accessible to the public (the “Open Space”); and

WHEREAS, the Planning Commission of the City of Madison, in accordance with the West Side Master Plan and after proper and timely notice and public hearing, has recommended approval of the Company and the Owner’s request to re-zone the Property from the current Agricultural (AG) zoning designation to the Traditional Neighborhood Development (TND) zoning designation; and

WHEREAS, the Company plans to construct the Development in multiple phases containing a mixture of commercial and retail space, community facilities, and a variety of for-sale residential housing types, including 84 stacked flat units, 135 townhome units, and 163 single-family detached residential lots, with approximately twenty-six point eight percent (26.8%) of the Subdivision to be set aside for Open Space; and

WHEREAS, the Parties acknowledge that residential subdivision development within the City of Madison, such as the Subdivision described in this Agreement, affects the ability of the City and the Madison City School District to provide adequate capacity and municipal services, and the parties desire to pace the development of the Subdivision in order to allow time for the City and the School District to provide adequate capacity and services; and

WHEREAS, the parties agree that the phasing of the Development and the allocation of the Open Space described in this Agreement will promote the health, safety, and welfare of the City and its residents;

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

ARTICLE I DEVELOPMENT OF PROPERTY

Section 1.1 The Development.

(a) The Development shall consist of approximately 97.85 acres of real property, said Property being more particularly described in Exhibit “A” attached hereto and as shown in Exhibit “B” hereto, which will be subdivided and developed into a neighborhood mixed use subdivision, comprised of three distinct areas: (1) the neighborhood center area (the “Neighborhood Center”) containing approximately 33,000 square feet of commercial and retail space and other designated neighborhood/community space; (2) a mixed residential area (the “Mixed Residential Area”) containing approximately 84 stacked flat units and 135 townhomes (each a “Unit,” collectively, the “Units”); and (3) the neighborhood edge area (the “Neighborhood Edge”) containing approximately 163 detached single family residential lots (each a “Lot,” collectively, the “Lots”).

(b) The Owner shall convey and/or donate to the City approximately 24.25 acres of Open Space, which is equivalent to approximately twenty-four point eight percent (24.8%) of the Development Site, for public park use, walking trails, green space, or any combination thereof (“Open Space” as depicted on Exhibit “B”). The Owner shall provide a statutory warranty deed for the Open Space in form and content reasonably acceptable to the City. The Company shall set aside and preserve public access to the Open Space. When the Company records the first final plat for the Development, the Company shall provide a public access easement to the Open Space designated by that final plat, in form and content acceptable to the City.

(c) The Company shall dedicate public right-of-way along the south margin of the existing public right-of-way for Huntsville-Browns Ferry Road as depicted in Exhibit “B” such that twenty (20) feet of right-of-way is provided from the edge of the existing right-of-way. Such dedication shall occur either with the recordation of the first final plat recorded for the Subdivision or by statutory warranty deed in form and content reasonably acceptable to the City. The Company shall dedicate public right-of-way for the main entrance and exit road connecting the Subdivision to Huntsville-Browns Ferry Road (the “Full Access Entrance/Exit”) as depicted in Exhibit “B” hereto with the recordation of the first final plat. Should donation of the Open Space per Section 1.1 (e) occur prior to dedication of the Full Access Entrance/Exit, a public access easement shall be granted to the City from Huntsville-Browns Ferry Road to the Open Space in the approximate location of the future Full Access

Entrance/Exit until such time as dedication of the Full Access Entrance/Exit is completed. Upon the City's acceptance of any right-of-way from the Developer, whether by deed or plat dedication, as well as the Developer's presentation of an appraisal for the right-of-way to the City, the City shall provide to the Developer a letter acknowledging the donation pursuant to the requirements of the Internal Revenue Code.

(d) The parties acknowledge that the City's West Side Master Plan applies to the Development and that said plan calls for the preservation of tree cover and open space, and the establishment and expansion of greenway and trail networks. Accordingly, the Developer has set aside and will preserve fifty-foot (50') wide buffers along the eastern and southern boundaries of the Neighborhood Edge and a thirty-foot (30') wide buffer along the western boundary of the Neighborhood Edge (the "Buffers"). The Company agrees to cooperate with the City to develop and/or improve the Buffers with walking trails or greenways if requested by the City. Additionally, where practical, the Company agrees to clear trees only as may be reasonably necessary to provide adequate grading and drainage, space for installation of the single-family detached homes on each Lot, and infrastructure improvements, including but not limited to, public roadways, sanitary sewer facilities, detention ponds, electric utility conduits, telecommunication conduits, natural gas supply lines, and storm water sewer facilities. Any healthy, mature trees proposed for removal within the Buffers for purposes other than creation of a walkway or greenway shall be replaced at a minimum ratio of two trees planted for every healthy tree removed. Such trees shall be identified on a mapped tree inventory prepared by a licensed arborist or qualified equivalent that is submitted to the City Planning Department prior to or in conjunction with a preliminary plat submittal. The replacement trees may be located throughout the project and shall be in addition to other trees required by City ordinances. Replacement trees shall be no smaller than two inches diameter at basilar area. The parties acknowledge that two-for-one tree mitigation ratio may not be species specific for every tree removed. For the purpose of this Agreement, mature trees are defined as any tree with a diameter at basilar area of 12 inches or greater, unless otherwise indicated by a licensed arborist for a specific tree species. Dead trees or trees showing advanced stages or decay will not be inventoried and thereby not subject to mitigation.

(e) The Owner will convey and/or donate the Open Space to the City on or within one (1) year from its Closing with the Developer, or at such earlier date and time as may be requested by the Owner, but no later than June 30, 2024. Upon the City's acceptance of the Open Space, by deed, as well as the Owner's presentation of an appraisal for said Open Space, the City shall provide to the Owner a letter acknowledging the donation pursuant to the requirements of the Internal Revenue Code. Upon the receipt of the Open Space by the City, and the subsequent design of any future park, the City will consider the use and surrounding residential neighborhoods. Additionally, the City will limit the use of any public events or youth sports activities within any future park consistent with standard operating procedures for City parks and will use low spillage lighting within the Open Space in accordance with the *Zoning Ordinance of the City of Madison* and will design future public access, lighting, and parking so as to limit light spillage and maximize compatibility with the adjoining residential areas.

(f) Homeowners' Association & Covenants, Conditions, and Restrictions:

(i) Developer shall establish and maintain a Homeowners' Association ("HOA"), which, at a minimum, shall regulate and provide for maintenance of common areas.

(ii) The Developer and the HOA shall promulgate, institute, record and enforce Development Covenants, Conditions, and Restrictions (the "CC&Rs") which shall, at a minimum, incorporate applicable requirements of Section 1.1 of this Agreement. Developer shall submit the final draft of the CC&Rs to the City of Madison Planning Department for review, as well as the City of Madison City Attorney, for approval as to form no later than sixty (60) days prior to approval of the first final plat. The City shall not unreasonably withhold, condition, or delay its approval of the CC&Rs. In the event the City of Madison Planning Department or City Attorney fails to approve or disapprove of the CC&Rs within thirty (30) days after submittal, the CC&Rs shall be deemed to be approved in the form submitted by Developer.

(iii) Developer agrees that it shall record the CC&Rs in the Probate Office of Limestone County, Alabama, before it applies for certificates of occupancy for any Units in Phase 1, and Developer acknowledges that City will not issue any certificates of occupancy for any Units within the Subdivision until the CC&Rs are properly approved and recorded.

(g) Prior to layout plat approval, Developer shall submit a wetlands delineation to the Planning and Engineering Departments in a form and substance acceptable to said departments. The parties acknowledge that said delineation may result in necessary changes to Developer's concept plan, and the parties agree to cooperate on any required concept plan updates.

Section 1.2 Plans and Specifications for Development Site. The Company shall cause to be prepared, at its sole cost and expense, plans, bid quantities and specifications for the development and construction of the Development Site (the "Preliminary Plans and Specifications") to be in general accordance with Exhibit "B" attached hereto and incorporated herein. The Company shall submit the Preliminary Plans and Specifications to the Planning Commission for approval, which approval process of fully acceptable construction plans shall be conducted and occur in general accordance with the Planning Commission's standard and typical approval process. If the Preliminary Plans and Specifications are not acceptable to the City, the City shall notify the Company in writing of those matters or items that are not acceptable, and the Company shall revise and modify the same, at its sole cost and expense, until definitive plans and specifications can be agreed upon between the Parties and delivered to the City (the definitive plans and specifications being herein called the "Final Improvement Plans and Specifications").

Section 1.3 Multiple Phases; Development Timeline. The Company hereby

covenants and agrees to design, develop, and construct the Development in accordance with the terms and provisions contained in this Agreement and in accordance with the Final Improvement Plans and Specifications as follows:

(a) Mixed Residential Area; Townhome Development Phases. The Company shall develop 135 townhome Units in two (2) distinct phases (each a “townhome phase” together the “townhome phases”), with construction of the first townhome phase to begin in 2023, and construction of the second phase to begin no earlier than the last quarter of 2024. The first townhome phase shall consist of approximately 66 townhome Units and the second townhome phase shall consist of approximately 69 townhome Units. The Company will develop the number of townhome Units in each townhome phase in substantial conformity with the project phasing plan provided in Exhibit “C” attached hereto and incorporated herein incorporated herein (the “Townhome Phasing Plan”). Developer acknowledges that City will not issue building permits for the development of townhome Units that are not within the then current phase or previous townhome phase. However, Developer may submit building permit applications for townhome Units in a future townhome phase prior to any future phase. In its sole and absolute discretion, the City may approve more townhome Units than is authorized in the Townhome Phasing Plan. The Company shall cause its successors in interest to townhome Units within the Development to comply with the Townhome Phasing Plan. It is understood that the stacked flat Units are not included in the Townhome Phasing Plan.

(b) Neighborhood Edge; Lot Development Phases. The Company shall develop the Property in no less than three (3) distinct phases (each a “phase,” together, the “phases”) with no more than one phase to be developed within a calendar year. The construction of the first phase will begin in 2023, and construction on the second phase to begin no earlier than the last quarter of 2024. The first phase shall consist of approximately 55 Lots, the second phase shall consist of approximately 55 Lots, and the third phase shall consist of approximately 55 Lots. The Company will develop the number of Lots in each phase in substantial conformity with the projected phasing plan provided in Exhibit “D” attached hereto and incorporated herein (the “Lot Phasing Plan”). Developer acknowledges that City will not issue building permits for the development of Lots that are not within the then current phase or previous phases. However, Developer may submit building permit applications for Lots in a future phase prior to any future phase(s). In its sole and absolute discretion, the City may approve more Lots than is authorized in the Lot Phasing Plan. The Company shall cause its successors in interest to Lots within the Development to comply with the Lot Phasing Plan.

(c) Commercial Development Site Plans. The Company may submit the site plans for the commercial retail space to the City for approval at any time but shall submit them no later than on or within 60 days from the issuance of the 100th Certificate of Occupancy.

(d) Commencement of Development. Pursuant to the Phasing Plan, the Company will cause commencement of development of the townhome Units and Lots to begin in the year 2023 and shall not apply for certificates of occupancy prior to March 1, 2024.

(e) Construction Activities.

(i) All construction activities of the Company regarding any portion or phase of the Development shall be conducted in compliance with all applicable laws, ordinances, rules, and regulations of all governmental authorities, including, without limitation, all applicable licenses, permits, building codes, fire codes, restrictive covenants, zoning and subdivision ordinances and flood, disaster, and environmental protection laws. The Company shall cause any architect, general contractor, subcontractor, or other business performing any work in connection with the construction of the proposed Development to obtain all necessary permits, licenses, and approvals to construct the same. Company acknowledges that the City will not waive any fees, access fees, or related expenses for any permits, licenses or approvals that must be obtained from the City or any other governmental authority in connection with the construction or operation of the proposed Development.

(ii) The Company, and any affiliate thereof involved with the Development, shall maintain its good standing within the City and shall at all times during the term of this Agreement be in compliance with all applicable laws, ordinances, rules and regulations of the City and, further, shall be current in payment of any and all taxes, fees, and other charges imposed by the City and all local government entities.

(iii) Company agrees and acknowledges that it shall pay any impact fees that the City may adopt by ordinance, which apply to the construction of the Development and all other similar residential developments, during the course of the construction of the Development. However, in the event such impact fees are adopted by the City, the Company shall be entitled to receive a credit for the donation of the Open Space to be applied against any impact fees assessed on the Development. Additionally, those Units and Lots where a building permit was issued prior to the adoption of the City ordinance shall be exempt from any impact fee.

Section 1.4 Approvals. The City agrees to use reasonable good faith efforts to facilitate the processing of city approvals and variances necessary for the development or construction of the Development, it being understood that nothing in this Section or Agreement is, or shall be deemed to be, an agreement by the City to waive any necessary city approvals required in connection to the Development.

ARTICLE II

TERM

The term of this Agreement will begin on the Effective Date, and the Agreement will remain in effect until the later of (a) ten (10) years after the Effective Date, or (b) the date that the City issues the final building permit for the last Lot to be developed in the Subdivision.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Section 3.1 Representations and Warranties of the City.

(a) The execution and delivery of this Agreement by the City have been duly authorized by the City Council of the City.

(b) The City has all right, power and authority to enter into the transactions contemplated by this Agreement and to perform its obligations hereunder.

Section 3.2 Representations and Warranties of the Company.

(a) The execution and delivery of this Agreement by Company has been duly authorized by all necessary action on the part of the governing body of the Company and its members and managers, if any.

(b) Company has all necessary power and authority to enter into the transactions contemplated by this Agreement and to perform its obligations hereunder.

(c) Neither the execution and delivery of this Agreement, nor the performance hereof, by the Developer requires any consent of, filing with or approval of, or notice to, or hearing with any Person or entity or other owner of the Developer, as well as any other affiliate of the Developer, and any Governmental Authority, whether domestic or foreign, which has not been obtained.

(d) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the Developer, to the knowledge of the Developer, violates, constitutes a default under or a breach of (i) the Developer's corporate organizational documents, (ii) any agreement, instrument, contract, mortgage or indenture to which the Developer is a party or to which the Developer or its assets are subject, or (iii) any judgment, decree, order, ordinance, rule, regulation, consent or resolution applicable to the Developer or any of its assets.

(e) There is not now pending nor, to the knowledge of the Developer, threatened, any litigation affecting the Developer which questions (i) the validity or organization of the Developer, (ii) the officers of the Developer or the manner in which any were appointed or elected to such positions, or (iii) the subject matter of this Agreement.

ARTICLE IV
EVENTS OF DEFAULT AND REMEDIES

Section 4.1 Events of Default by the City.

(a) Any one or more of the following shall constitute an event of default under this Agreement by the City (herein called a "City Event of Default") (whatever the reason for such event and whether it shall be voluntary or involuntary or be affected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) the dissolution or liquidation of the City, or the filing by the City of a

voluntary petition in bankruptcy, or the City's seeking of or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the City as a bankrupt, or any assignment by the City for the benefit of its creditors, or the entry by the City into an agreement of composition with its creditors, or if a petition or answer is filed by the City proposing the adjudication of the City as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(ii) Any failure by the City to perform or observe its agreements or covenants contained in this Agreement, which failure shall have been brought to the attention of the City by written notice thereof from the Company, (A) unless the Company shall agree in writing to extend a period prior to its expiration, or (B) during such period or any extension thereof, the City has commenced and is diligently pursuing appropriate corrective action, or (C) the City is by reason of a Force Majeure Event, as defined in Section 3.3, at the time prevented from performing or observing the agreement or covenant with respect to which the City is delinquent.

(b) If a City Event of Default exists, the sole and exclusive remedy of the Company shall be mandamus or specific performance. The Company shall not be entitled to any other damages whatsoever, including, without limitation, incidental, consequential or punitive damages, whether arising at law, in equity or otherwise.

Section 4.2 Events of Default by the Company.

(a) Any one or more of the following shall constitute an event of default under this Agreement by the Company (herein called a “Company Event of Default”), whatever the reason for such event and whether it shall be voluntary or involuntary or be affected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule, or regulation of any administrative or governmental body:

(i) at any time prior to the completion by the Company of its obligations hereunder, the Company is dissolved or liquidated, or the filing by the Company of a voluntary petition in bankruptcy, or the Company seeking of or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the Company as a bankrupt, or any assignment by the Company for the benefit of its creditors, or the entry by the Company into an agreement of composition with its creditors, or if a petition or answer is filed by the Company proposing the adjudication of the Company as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(ii) failure by the Company to perform or observe any of its agreements or covenants contained in this Agreement, which failure shall have continued for a period of 30 calendar days after written notice thereof from the City, unless (A) the City shall agree in writing to an extension of such period prior to its expiration, or (B) during such 30-day period or any extension thereof, the Company has commenced and is diligently pursuing appropriate corrective action, or (C) the Company is by reason of a Force Majeure Event, as defined in Section 4.3, at the time prevented from performing or observing the agreement or covenant with respect to which it is delinquent.

(b) In addition to such other rights or remedies available to the City hereunder including, without limitation, those set forth and described in Article III hereof, if a Company Event of Default exists, the City may proceed to protect its rights hereunder by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any covenant or agreement of the Company herein contained. Under no circumstances shall the City be entitled to incidental, consequential or punitive damages.

(c) Attorney's Fees. In the event that either Party institutes any legal suit, action, or proceeding against the other party to enforce the covenants contained in or arising out of this Agreement, the prevailing party in the suit, action, or proceeding shall be entitled to receive, in addition to all other damages to which it may be entitled, the costs incurred by such party in conducting the suit, action, or proceeding, including reasonable attorneys' fees and expenses and court costs.

Section 4.3 Force Majeure Event. Force Majeure Event 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).

ARTICLE V MISCELLANEOUS

Section 5.1 Party Approvals. Any approvals to be delivered by any party hereto shall be by a designated and authorized individual or officer for such purpose.

Section 5.2 Entire Agreement. This written Agreement and the Exhibits hereto, contain all the representations and the entire agreement among the parties with respect to the subject matter hereof. Except as otherwise specified in this Agreement, any prior correspondence, memoranda, agreements, warranties or representations are superseded in total by this Agreement and Exhibits hereto. Neither the conduct nor actions of the parties, nor the course of dealing or other custom or practice between or among the parties or any of them, shall constitute a waiver or modification of

any term or provision of this Agreement. This Agreement may be modified or amended only in the manner specified in this Agreement.

Section 5.3 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same agreement. A signed copy of this Agreement delivered by e-mail shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 5.4 Governing Law. This Agreement shall be governed exclusively by, and construed and interpreted in accordance with, the laws of the State of Alabama.

Section 5.5 Notices.

- (a) All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the party or to an officer of the party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, addressed as follows:

If to City: The City of Madison
Attn: Mary Beth Broeren, Director of Development Services
100 Hughes Road
Madison, Alabama 35758

With a Copy to: The City of Madison
Attn: Brian Kilgore, City Attorney
100 Hughes Road
Madison, Alabama 35758

If to Company: McKinley Homes US
Attn: Henry Massie & Bill Schmidt
655 Engineering Drive, Suite 208,
Peachtree Corners, GA 30092

With Copy to: Wilmer & Lee P.A.
Attn: Katie Beasley
100 Washington Street
Huntsville, Alabama 35801

If to Owner: M&G Holdings, LLC
Attn: Aaron Mance
2101 Governors Drive SW
Huntsville, Alabama 35805

With a Copy to: Harrison & Gammons, PC
Attn: Matt Harrison
2430 L&N Drive
Huntsville, Alabama 35801

(b) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of three (3) days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier. Any party may change the address for the sending of notifications by providing written notice to the other Party in accordance herewith.

Section 5.6 Liabilities of the City. The Parties agree and acknowledge that the obligations of the City as set forth herein are limited by the limitations imposed on public bodies, municipalities, and public corporations by the Constitution of the State of Alabama and laws affecting the use and maintenance of public property.

Section 5.7 No Waiver. No consent or waiver, express or implied, by any party hereto or to any breach or default by any other party in the performance by such 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 any party to complain of any act or failure to act of any other party or to declare such 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 be construed to waive or limit the need for such consent in any other or subsequent instance.

Section 5.8 Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person or circumstance, and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

Section 5.9 No Partnership or Joint Venture. The parties specifically acknowledge that neither of the Parties is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants, and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership or joint venture between or among any two or more of the Parties, or cause them to be considered joint venturers or members of any joint enterprise.

Section 5.10 Headings. The headings in the Sections in this Agreement are for convenience of reference only and shall not form a part hereof.

Section 5.11 No Third-Party Beneficiaries. This Agreement is not intended and shall not be construed to create any third-party beneficiary rights in any person who is not a party or a permitted assignee or transferee; and nothing in this Agreement shall limit or waive any rights any one or more of the parties may have or acquire against any third person with respect to the terms, covenants, or conditions of this Agreement.

Section 5.12 Ambiguity. The terms, conditions and provisions of this Agreement were agreed to in arms' length negotiations in which each Party was represented by independent counsel of its own choosing. Accordingly, in the event of any ambiguity in this Agreement, such ambiguity shall not be resolved against any Party deemed the principal draftsman of this Agreement or the provision of this Agreement at issue.

Section 5.13 Assignment. Neither party may assign, transfer, or delegate any or all of its rights or obligations under this Agreement, voluntarily or involuntarily, including by change of control, merger (whether or not such party is the surviving corporation), operation of law, or any other manner, without the prior written consent of the other party, which consent may not be unreasonably withheld, conditioned, or delayed. Any purported assignment or delegation in violation of this Section 5.13 shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations under this Agreement.

Section 5.14 Amendment. Except as expressly provided in this Agreement this

Agreement may be modified or amended only by a written instrument, executed by each of the parties to this Agreement.

Section 5.15 Contingencies. This Development Agreement is contingent upon (1) the successful closing of the purchase of the Property by Company, (2) Planning Commission approval the layout plat of the Property necessary to accommodate the development contemplated herein, (3) Approval and publication of an ordinance approving and authorizing re-zoning of the Property, and (4) City Council approval of this Agreement.

Section 5.16 Time of the Essence. Time shall be of the essence in this Agreement. Material time provisions in this Agreement include any references to dates or times, as well as the Phasing Schedule.

Section 5.17 Further Assurances. Each of the Parties shall, and shall cause their respective affiliates, successors, and assigns to execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be reasonably required to carry out the provisions of and transactions provided for in this Agreement.

Section 5.18 Recitals. All recitals in the preamble to this Agreement are incorporated into this Agreement as if fully set out herein.

Section 5.19 Counsel Acknowledgement; Conflict Waiver. The Parties acknowledge that the Developer's counsel, Katherine Amos Beasley ("Counsel") of Wilmer & Lee. P.A. (the "Firm") prepared this Agreement on behalf of and in the course of Counsel's representation of Developer. Other members of the Firm currently represent the City in unrelated eminent domain issues and other real estate matters. The potential conflict of interest concerning the rendition of legal services to both Developer and the City has been disclosed to the parties. For purposes of this Agreement, Counsel represents the Developer's interest and no others. All conflicts of interest due to Counsel's or the Firm's representation of Developer and the Firm's representation of the City in unrelated legal matters are hereby waived by the Parties.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed and delivered on its behalf by its duly authorized officer, on and as of the Effective Date.

CITY OF MADISON

By: _____
Paul Finley, Mayor

Attest:

By: _____
Lisa Thomas
City Clerk-Treasurer

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 _____, 2022.

Notary Public
My Commission expires: _____

COMPANY:

MCKINLEY HOMES US, LLC, a Georgia limited liability company

By: _____

Name: _____

Its: _____

STATE OF _____ §

§

COUNTY OF _____ §

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

Given under my hand this the _____ day of _____ 2022.

NOTARY PUBLIC

My Commission expires: _____

OWNER:

M & G HOLDINGS, LLC

By: Trunk Bay Holdings, LLC, its
Member

By: _____
Name: Aaron Mance
Its: Member

STATE OF ALABAMA §
 §
COUNTY OF MADISON §

I, the undersigned authority, a Notary Public in and for the said County in said State, hereby certify that Aaron Mance whose name as Member of Trunk Bay Holdings, LLC, in its capacity as Member of M & G HOLDINGS, LLC, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Member, and with full authority, executed the same voluntarily for and as the act of said entity in its representative capacity.

Given under my hand this the _____ day of _____ 2022.

NOTARY PUBLIC
My Commission expires: _____

EXHIBIT "A"
SUBJECT PROPERTY DESCRIPTION

STATE OF ALABAMA
COUNTY OF MADISON

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 4 SOUTH, RANGE 3 SOUTH OF THE HUNTSVILLE MERIDIAN, LIMESTONE COUNTY, ALABAMA; THENCE, SOUTH 01 DEGREES 15 MINUTES 36 SECONDS WEST, A DISTANCE OF 30.65 FEET TO A 1/2" REBAR SET AND CAPPED "JWK&A CA-1098LS", SAID POINT BEING ON THE SOUTH MARGIN OF HUNTSVILLE – BROWNSFERRY ROAD, A RIGHT OF WAY OF VARYING WIDTH, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PROPERTY;

THENCE FROM THE POINT OF BEGINNING AND ALONG SAID SOUTH MARGIN OF HUNTSVILLE – BROWNSFERRY ROAD, SOUTH 88 DEGREES 50 MINUTES 53 SECONDS EAST, A DISTANCE OF 405.18 FEET TO A 5/8" REBAR FOUND;

THENCE, SOUTH 88 DEGREES 48 MINUTES 04 SECONDS EAST, A DISTANCE OF 210.29 FEET TO A 5/8" REBAR FOUND;

THENCE, SOUTH 88 DEGREES 49 MINUTES 55 SECONDS EAST, A DISTANCE OF 220.64 FEET TO A 5/8" REBAR FOUND;

THENCE, SOUTH 88 DEGREES 49 MINUTES 55 SECONDS EAST, A DISTANCE OF 529.16 FEET TO A 1/2" REBAR SET AND CAPPED "JWK&A CA-1098LS", SAID POINT BEING THE NORTHWEST CORNER OF THAT PROPERTY DESCRIBED IN VOLUME: 669, PAGE: 38 AS RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE, LIMESTONE COUNTY, ALABAMA;

THENCE LEAVING SAID SOUTH MARGIN AND ALONG THE WEST BOUNDARY OF SAID PROPERTY, SOUTH 01 DEGREES 48 MINUTES 36 SECONDS WEST, A DISTANCE OF 275.02 FEET TO A 1/2" REBAR SET AND CAPPED "JWK&A CA-1098LS";

THENCE ALONG THE SOUTH BOUNDARY OF SAID PROPERTY, SOUTH 88 DEGREES 49 MINUTES 55 SECONDS EAST, A DISTANCE OF 283.02 FEET TO A 1/2" REBAR SET AND CAPPED "JWK&A CA-1098LS", SAID POINT BEING LOCATED IN A FENCE;

THENCE ALONG SAID FENCE, SOUTH 01 DEGREES 48 MINUTES 36 SECONDS WEST, A DISTANCE OF 2355.91 FEET TO A CONCRETE MONUMENT FOUND;

THENCE, NORTH 88 DEGREES 56 MINUTES 47 SECONDS WEST, A DISTANCE OF 810.33 FEET TO A RAILROAD SPIKE FOUND;

THENCE, NORTH 88 DEGREES 47 MINUTES 29 SECONDS WEST, A DISTANCE OF 839.69 FEET TO A 5/8" REBAR FOUND;

THENCE, NORTH 01 DEGREES 50 MINUTES 59 SECONDS EAST, A DISTANCE OF 2622.80 FEET TO A 5/8" CAPPED IRON PIN FOUND G.M.C.;

THENCE, NORTH 01 DEGREES 15 MINUTES 36 SECONDS EAST, A DISTANCE OF 9.17 FEET TO THE POINT OF BEGINNING AND CONTAINING 97.85 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS RECORDED OR UNRECORDED FOR PUBLIC UTILITIES AND/OR RIGHTS OF WAY.

THE FOLLOWING DESCRIBED PROPERTY BEING THOSE PROPERTIES DESCRIBED IN RPLY 2001-15430, DEED BOOK 776, PAGE 10, RPLY 2001-15423, DEED BOOK 667, PAGE 412, AND DEED BOOK 2944, PAGE 14 AS RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE, LIMESTONE COUNTY, ALABAMA.



