



**Agenda**  
**REGULAR MEETING OF THE CITY COUNCIL**  
**OF THE CITY OF MADISON, ALABAMA**  
**6:00 PM**  
**Council Chambers**  
**May 22, 2023**

**AGENDA NO. 2023-10-RG**

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

1. CALL TO ORDER

2. INVOCATION

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

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL OF ELECTED GOVERNING OFFICIALS

5. AMENDMENTS TO AGENDA

6. APPROVAL OF MINUTES

A. Minutes No. 2023-04-WS, dated May 8, 2023

B. Minutes No. 2023-09-RG, dated May 8, 2023

C. Minutes No. 2023-01-SP, dated May 16, 2023

7. PRESENTATIONS AND AWARDS

A. Proclamation recognizing "National Public Works Week" from May 15 - May 21, 2023 in the City of Madison

B. Presentation of Employee of the Year Awards by Mrs. Debbie Overcash with the Madison Rotary Club

8. PUBLIC COMMENTS-PERTAINING TO AGENDA

Public comments pertaining to agenda-related items are limited to 3 minutes per speaker. Anyone who would like to sign up prior to the Council meeting may contact the City Clerk at [cityclerk@madisonal.gov](mailto: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](mailto:citycouncil@madisonal.gov)

9. CONSENT AGENDA AND FINANCE COMMITTEE REPORT

- A. Regular and periodic bills to be paid
- B. Authorization of payment to S&ME, Inc. in the amount of \$3,282.06 for Invoice No. 1180340 for Project No. 18-022 (Hughes Road Widening Project) (to be paid from 2020-A Bond account)
- C. Authorize the Parks & Recreation Department to solicit bids for Hexagon Athletic Field lighting installation
- D. Resolution No. 2023-165-R:** Acceptance of AMIC Settlement Claim No: 059515 in the amount of \$4,369.00 for wind loss to the K-9 and Animal Control Building (Final Payment. Claim is now closed)
- E. Resolution No. 2023-172-R:** Authorizing the purchase of bullet-resistant vests from the BuyBoard National Purchasing Cooperative (to be paid from the Police Department budget)
- F. Resolution No. 2023-177-R:** Declaring the Police badge and duty weapon used by Officer Troy Vickers as surplus and authorizing that they be given to him upon his retirement on June 1, 2023
- G. Acceptance of donations from J. and S. Crenshaw in the amount of \$50 in memory of GERAL "Deanie" Bucy, and M.C. Flurer in the amount of \$25.00 (to be deposited into Senior Center Donation account)
- H. Acceptance of donation from Senator Tom Butler in the amount of \$5,000 for Fire Department expenses and equipment (to be deposited into Fire Donation account)
- I. Acceptance of donation of two (2) Samsung 75" televisions from Madison Baseball Association for Dublin Park meeting rooms valued at \$1,482.38
- J. Acceptance of checks from Chambers Bottling Company, LLC in the amounts of \$39.00, and \$27.92 (to be deposited into Fire Department Donation account)

10. PRESENTATIONS OF REPORTS

**MAYOR PAUL FINLEY**

- A. Resolution No. 2023-125-R:** Approving an agreement for City employees to use the Hexagon Wellness Center in the amount of \$24,000 annually (to be paid from General Services)

**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**

- A. Resolution No. 2023-171-R:** Authorizing video recording and archiving of the May 17, 2023 City Council Work Session

**COUNCIL DISTRICT NO. 6 KAREN DENZINE**

**COUNCIL DISTRICT NO. 7 JOHN SEIFERT**

11. BOARD/COMMITTEE APPOINTMENTS

- A. Reappointment of Tommy Overcash to the North Alabama Gas Board with a term expiration of July 1, 2029

- B. Appointment to Place No. 5 of the Water and Wastewater Board of the City of Madison with a term expiration of September 1, 2024

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](mailto: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](mailto:citycouncil@madisonal.gov).

13. DEPARTMENT REPORTS

**ENGINEERING**

- A. **Proposed Ordinance No. 2023-155**: Authorizing acceptance and improvements of a right of way from UAH Foundation to extend Jetplex Lane (First Reading- suspension of rules requested)
- B. **Resolution No. 2023-173-R**: Authorizing a Professional Services Agreement with Armstrong & Sasso Appraisal Company, LLC for land appraisal on Project 20-008 (Browns Ferry Road box culvert replacement) in an amount not to exceed \$5,000 (to be paid from Engineering Department budget)
- C. **Resolution No. 2023-179-R**: Authorizing the acquisition of property and easements necessary for construction of the Madison Branch Boulevard roundabout in the amount of \$49,842.00 (to be paid from Engineering Department budget)
- D. **Resolution No. 2023-185-R**: Accepting into Public Use and Maintenance the Subdivision Improvements for the Heights at Town Madison, Phase 5

**FIRE & RESCUE**

- A. **Proposed Ordinance No. 2023-153**: Amending the City's Fire Code, as adopted in Chapter 8 of the *City of Madison Code of Ordinances* (First Reading 5/8/2023)

**INFORMATION TECHNOLOGY**

- A. **Resolution No. 2023-178-R**: Authorizing an agreement with Comcast Enterprise for fiber to eight municipal locations (to be paid from IT Department budget)
- B. **Resolution No. 2023-186-R**: Authorizing an agreement with NinjaOne for IT support software in the amount of \$10,800 annually (to be paid from IT Department budget)

**LEGAL**

- A. **Proposed Ordinance No. 2023-134**: Authorizing a Franchise Agreement with Knology of Huntsville, Inc (doing business as WOW!) for the operation and maintenance of a cable and broadband system within the City of Madison (First Reading)
- B. **Resolution No. 2023-163-R**: Acceptance of dedication of tract of property along Kyser Boulevard from Smart Living, LLC for City right-of-way.
- C. **Resolution No. 2023-175-R**: Authorizing the acceptance of an easement for a portion of Wise Street.
- D. **Proposed Ordinance No. 2023-188**: Amending City Code Section 2-42(4) Order of Agenda Items (First Reading)

**PLANNING**

- A. **Proposed Ordinance No. 2023-157:** Vacation of a portion of a utility and drainage easement located within Bellawoods Subdivision (First Reading 5/8/2023)
- B. **Resolution No. 2023-158-R:** Authorizing a Professional Services Agreement with Slaughter & Associates, PLLC, for the redistricting of election districts in the amount of \$15,000 (to be paid from departmental budget 10-070-000-1917-00)

**RECREATION**

- A. **Resolution No. 2023-187-R:** Authorizing a Professional Services Agreement with Hogan's Mechanical Services (HMS) for the installation of a lighting system at Dublin Park, Field 5 in the amount of \$71,500 (to be paid from Recreation Department budget )

14. ADDITIONAL PUBLIC COMMENTS

Public comments are limited to 3 minutes per speaker. Anyone who would like to sign up prior to the Council meeting may contact the City Clerk at [cityclerk@madisonal.gov](mailto: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](mailto:citycouncil@madisonal.gov)

15. MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

16. ADJOURNMENT

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

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





**MINUTES NO. 2023-04-WS  
PUBLIC WORK SESSION OF THE CITY COUNCIL  
OF THE CITY OF MADISON, ALABAMA  
May 8, 2023**

The Madison City Council met for a public work session on Monday, May 8, 2023, at 5:00 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 5:00 p.m. by Council President Ranae Bartlett.

**The following Council Members were in attendance:**

Council District No. 1 Maura Wroblewski	Present
Council District No. 2 Connie Spears	Present
Council District No. 3 Teddy Powell	Arrived at 5:01 P.M.
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	Arrived at 5:07 P.M.

City Officials in attendance were: City Clerk-Treasurer Lisa D. Thomas, Deputy City Clerk-Treasurer Kerri Sulyma, City Clerk Administrative Assistant Mari Bretz, City Attorney Brian Kilgore, City Administrator Steve Smith, Fire Chief David Bailey, Police Chief Johnny Gandy, Director of Development Services Mary Beth Broeren, Communication Specialist Gabriel Kuenzli, Assistant Planner Kali Zimmerman, Information Technology Support Technician Rhianna O'Reilly, and Information Technology Support Technician Garrett Gillott.

**MURAL GUIDELINES FOR THE CITY**

Director of Development Services Mary Beth Broeren provided a brief overview of the drafted guidelines for murals in response to citizen's interest. Director of Development Services Mary Beth Broeren shared that they are recommending allowing murals in commercial district and asked council to consider a provision to allow murals on city property. The current draft that Director of Development Services Mary Beth Broeren is sharing does not include murals on city property. The following guidelines were drafted:

- No more than 2 murals per building
- Murals would have to be on the sides or on the back of the building, except for mix-use buildings in B1, where there would be a consideration to allow them in front of the building
- Creation of a Mural Advisory Board appointed by council
- Application with a filing fee
- Submission of schematic design along with a maintenance plan
- Murals would be checked twice per year

Director of Development Services Mary Beth Broeren asked council to review and to email her staff with questions or suggestion before they reassemble again in a future work session.

Council President Bartlett asked Director of Development Services Mary Beth Broeren if they anticipate discussing it further in a work session before it is brought to council for a vote. Director of Development Services Mary Beth Broeren responded with a yes because there are no mural guidelines in the City of Madison and unlike other cities who "wing-it", Madison will not be one of those cities. Assistant Planner Kali Zimmerman has spent a lot of time reviewing various cities who have adopted mural guidelines. Director of Development Services Mary Beth Broeren also spoke briefly on the legal aspect of mural guidelines and would be discussed in-depth in a future work session.

Council President Bartlett asked if putting the mural guidelines topic on a June work session would work for meeting Planning's timeline. Director of Development Services Mary Beth Broeren responded that it would be fine as they know of one group that is wanting to do a mural in the fall.

### **SCIENCE MUSEUM PROPOSAL**

City Administrator Steve Smith appeared before City Council and Mayor Finley to introduce Joe Iacuzzo and his team of scientists to propose a science museum in Madison. Joe Iacuzzo has been a teacher, a marketer, has worked with United Way and Make-A-Wish, a lobbyist, a creator of a children's magazine, has worked with Universal Pictures on the Jurassic Park Institute Program, has created museum exhibits, and displays around the world, co-produced award-winning documentary, and has founded numerous science festivals.

Joe Iacuzzo appeared before City Council and Mayor Finley where he shared his proposal for a science museum on the Hexagon property. Mr. Iacuzzo discussed what the museum would look like, possible exhibits that would be housed at the museum, along with the murals and interactive walls in the building. Mr. Iacuzzo shared what the financial benefits of the museum would be to the community and the economic impact to the city.

Council Member Shaw asked Mr. Iacuzzo if this would be his first museum that he has ever started from scratch. Mr. Iacuzzo responded that he has helped start up two other museums but that he was not the founder.

Council President Bartlett asked Mr. Iacuzzo who is his non-profit organization. Mr. Iacuzzo responded that it is the Innovation for Education Foundation which is a Alabama registered 501(c)(3) organization that has been in existence since 2016.

Council President Bartlett raised concerns about the sustainability of a science museum in Madison in terms of financial support. Mr. Iacuzzo responded that he could structure it so that it would not cost much to build it and operate it.

Council Member Wroblewski confirmed that with the first responders occupying part of the building if they didn't put the museum in that space, the space would remain empty. Mayor Finley confirmed.

Council Member Spears asked Mr. Iacuzzo for financial data and numbers that Council could look at because even though it is a non-profit, he needs to explain their viability for investors. Mr. Iacuzzo responded he did not have it today.

Financial viability discussion continued between Mr. Iacuzzo, council members, and City Administrator Steve Smith. Council Member Powell shared that currently he does not support it because there are questions that have not been answered such as who the curator is and what kind of experience do they bring to this venture. Council Member Denzine thanked Mr. Iacuzzo for his enthusiasm and shared that she thinks it is an excellent addition. Council Member Denzine also asked Mr. Iacuzzo if he could provide an overview of the floor plan or

what the kids would see as they walked through. Mr. Iacuzzo provided a brief overview and explained that it would follow a story that would be integrated, and he is planning for a 90-minute overall experience, but some might go through it in less or more time. Council Member Seifert asked Mr. Iacuzzo how facilities and organizations such as the Cook Museum and the North Alabama Zoological Society would affect the museum, would it be partnering, or competing against them. Mr. Iacuzzo said that he has worked with zoological societies in the past and would hope for a partnership with other organizations.

Council Member Denzine asked about a timeline for getting a plan, funding, and when council would need to decide. City Administrator Steve Smith responded that if he could get a head nod that they would start gathering all the information requested immediately and that the timeline would depend on how quickly Mr. Iacuzzo could get some letters of commitment and if they could come to terms based on what council wants to see on the agreement. City Administrator Steve Smith added that they would not try to rush it through as they want to make sure that all council's questions and financial resources are met, even if it takes several months.

Council Member Denzine asked City Administrator Steve Smith if they were tying up the space for someone else by waiting for questions to be answered. City Administrator Steve Smith explained that his sense of urgency with the museum proposal is that he wants to get the building designed for the first responders and the fire station, and if they are going to move forward with the museum, he would like us and the museum to use the same architect and take care of both at the same time. Council Member Denzine added that she was a yes in moving forward with the museum.

The discussion on the science museum proposal ended as Council President Bartlett reminded all that they were out of time as the regular scheduled council meeting was to begin in 2 minutes at 6:00pm. Mayor Finley thanked Mr. Iacuzzo for his time and presentation.

### **ADJOURNMENT**

Having no further business to discuss, the work session adjourned at 5:58 p.m.

Minutes No. 2023-04-WS, dated May 8<sup>th</sup>, 2023, read, approved and adopted this 22<sup>nd</sup> day of May 2023.

\_\_\_\_\_  
Council Member Maura Wroblewski  
District One

\_\_\_\_\_  
Council Member Connie Spears  
District Two

\_\_\_\_\_  
Council Member Teddy Powell  
District Three

\_\_\_\_\_  
Council Member Greg Shaw  
District Four

\_\_\_\_\_  
Council Member Ranae Bartlett  
District Five

\_\_\_\_\_  
Council Member Karen Denzine  
District Six

\_\_\_\_\_  
Council Member John Seifert  
District Seven

Concur:

\_\_\_\_\_  
Paul Finley, Mayor  
Attest:

\_\_\_\_\_  
Lisa D. Thomas  
City Clerk-Treasurer

\_\_\_\_\_  
Mari Bretz  
Recording Secretary



**MINUTES NO. 2023-09-RG  
REGULAR CITY COUNCIL MEETING  
OF MADISON, ALABAMA  
May 08, 2023**

*To protect the public health during the COVID-19 pandemic, and according to State and Federal Guidelines, the Madison City Council observed social distancing procedures at the Council meeting. Anyone who was sick or was living with a quarantined family member was recommended against attending the meeting. The meeting was broadcast live on Wow! Channel 42 and online streaming at [www.madisonal.gov/viewmeetings](http://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, May 8, 2023, at 6:00 p.m. in the Council Chambers of the Madison Municipal Complex, Madison, Alabama. Noting that a quorum was present, the meeting was called to order at 6:02 p.m. by Council President Ranae Bartlett.

Assistant Pastor Brian Brown, with Madison Baptist Church provided the invocation followed by the Pledge of Allegiance led by Council President Ranae Bartlett.

**ELECTED GOVERNING OFFICIALS IN ATTENDANCE**

Mayor Paul Finley	Present
Council District No. 1 Maura Wroblewski	Present
Council District No. 2 Connie Spears	Present
Council District No. 3 Teddy Powell	Present
Council District No. 4 Greg Shaw	Arrived at 6:04 P.M.
Council District No. 5 Ranae Bartlett	Present
Council District No. 6 Karen Denzine	Arrived at 6:04 P.M.
Council District No. 7 John Seifert	Late

City Officials in attendance were: City Clerk-Treasurer Lisa D. Thomas, Deputy City Clerk-Treasurer Kerri Sulyma, City Clerk Administrative Assistant Mari Bretz, City Attorney Brian Kilgore, Director of Revenue Cameron Grounds, Information Technology Support Technician Rhianna O'Reilly, Information Technology Support Technician Garrett Gillott, City Engineer Michael Johnson, Police Chief Johnny Gandy, Fire Chief David Bailey, Director of Human Resources Megan Zingarelli, Director of Development Services Mary Beth Broeren, Police Records Supervisor Sheila Peoples, and Director of Recreation Kory Alfred.

Public Attendance registered: Margi Daly, Gladys Williams, Bernadette Mayer, Dee Voelkel, Sheila Peoples, Jean Ann Benfield, Terri Johnson, Tim Stuehr, Tom Colbey, Lou Kronenberger, Lynda Kronenberger

## **AMENDMENTS TO AGENDA**

City Attorney Brian Kilgore requested to remove **Resolution No. 2023-175-R** due to questions on legal description.

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

## **APPROVAL OF MINUTES**

### **MINUTES NO. 2023-08-RG DATED APRIL 24, 2023**

Council Member Powell moved to approve Minutes No. 2023-08-RG. 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	Absent at time of vote
Council Member Ranae Bartlett	Aye
Council Member Karen Denzine	Aye
Council Member John Seifert	Absent at time of vote

Motion carried.

## **PRESENTATIONS AND AWARDS**

None

## **PUBLIC COMMENTS-AGENDA RELATED**

*Public Comments pertaining to agenda-related items 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](mailto: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](mailto:citycouncil@madisonal.gov).*

### **GLADYS WILLIAMS (DISTRICT 4)**

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

- The unfair raising of pay grades on Resolution No. 2023-149-R
- Workload increase with no compensation increase
- Compensating Spanish bilingual employees

**MARGI DALY (DISTRICT 6)**

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

- Integration of the City Clerk Dept and Revenue Dept-Resolution No. 2023-149-R
- Spanish Bilingual employee compensation
- Drainage Agreement Resolution No. 2023-156-R
- Subdivision flooding

**CONSENT AGENDA AND FINANCE COMMITTEE REPORT**

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

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

General Operating Account	\$1,982,711.51
Special General Operating Accounts	\$4,574.67
ADEM Storm Drainage	\$654.56
1/2 Cent Capital Replacement	\$124,566.20
Gasoline Tax & Petroleum Inspection fees	\$44,122.01
Street Repair and Maintenance	\$509.22
CIP Bond Accounts	\$50,346.91
Library Building Fund	\$7,269.26
Venue Maintenance	\$43,080.13

Regular and periodic bills to be paid

Approval Authorization of payment to Rogers Group, Inc. in the amount of \$9,877.85 for Invoice No. 46421 (CIP No. 18-023, Sullivan Street widening construction performed through March 31, 2023. Bid No. 2019- 011-ITB) (to be paid from 2018-C Bond account)

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

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

Council Member John Seifert

Aye

Motion carried.

## **PRESENTATION OF REPORTS**

### **MAYOR PAUL FINLEY:**

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

- Mid-year budget timeline update
- Addressing areas of concern in employment and staffing
- Employee step increase and their value
- Met with Madison Arts to follow up regarding murals and that they will be announcing the schedule for summer concerts at Home Place Park

### **COUNCIL DISTRICT NO. 1 MAURA WROBLEWSKI**

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

- Confirmed with Mayor Finley about the step increases and the cost-of-living increase employees received this year
- Welcomed new member Ryan Brown to the Industrial Development Board
- Attended the Welcome Back Reception Madison County Commissioner Mac McCutcheon
- Attended the National Day of Prayer with Council Member Denzine

### **COUNCIL DISTRICT NO. 2 CONNIE SPEARS**

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

- Attended the Welcome Back Reception for Madison County Commissioner Mac McCutcheon
- Attended the Madison CEO trade show along with Mayor Finley, where students from Madison City Schools make goods, products, or offer services that they use to develop a business plan for scholarships

### **COUNCIL DISTRICT NO. 3 TEDDY POWELL**

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

No business to report.

### **COUNCIL DISTRICT NO. 4 GREG SHAW**

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



No business to report.

**COUNCIL DISTRICT NO. 5 RANAE BARTLETT**

**RESOLUTION NO. 2023-170-R: AUTHORIZING VIDEO RECORDING, ARCHIVING, AND LIVESTREAM OF MAY 8TH CITY COUNCIL WORK SESSION**

Council Member Spears moved to approve Resolution No. 2023-170-R. Council Member Wroblewski 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 Bartlett reported on the following activities, events, and newsworthy items:

- Thanked Mayor Finley for meeting with herself and Bradford Farms HOA members
- Congratulated Madison Police Chief Johnny Gandy who graduated from Leadership Class 36 after completing a 9-month program
- Reminded everyone that Tuesday May 16<sup>th</sup> city council will hold a meeting in council chambers where they will be canvassing the ballots in the special election
- The regular monthly work session will be held on Wednesday, May 17<sup>th</sup> at 6:30pm because a local preschool will be holding their graduation in council chambers at 5:30pm

**COUNCIL DISTRICT NO. 6 KAREN DENZINE**

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

- Attended the National Day of Prayer breakfast which was attended by 644 individuals and appreciated being in attendance
- Encouraged everyone to get out and vote on Tuesday May 9<sup>th</sup>
- Reminded everyone that May 15<sup>th</sup> is graduation day for Madison City School high school students

**COUNCIL DISTRICT NO. 7 JOHN SEIFERT**

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

No business to report.

**BOARD/COMMITTEE APPOINTMENTS**

None

**PUBLIC HEARINGS**

*Speakers and public hearing applicants who wanted to address agenda items listed under this section of the agenda were instructed to reserve their comments for the public hearing. Before or during the Council Meeting they were asked to sign up for the public hearing at which they wanted to address Council by texting the word "COMMENT" to the City's automated SMS system at 938-200-8560 or by filling out a card available in the vestibule or from the City Clerk. The project initiator, applicant, owner or agent of the business or property that is the subject of the hearing was allowed to speak for 15 minutes. Residents within the noticed area of the subject property, as well as all other members of the public, were allowed to speak for 5 minutes.*

**RESOLUTION NO. 2023-168-R: REQUEST FOR A LOUNGE RETAIL LIQUOR - CLASS II (PACKAGE) LICENSE FROM JAY JOGNI INC., D/B/A BALCH ROAD SPIRITS, FOR THEIR LOCATION AT 513 BALCH ROAD, SUITE A (NEW APPLICATION SUBMITTED TO CORRECT AN ERROR MADE BY OWNER ON PREVIOUS APPLICATION - ADDRESS CORRECTED FROM SUITE B TO SUITE A)**

Revenue Officer Cameron Grounds informed Council that the business submitted a new application after the ABC board found that the business had submitted their first application with an incorrect suite. Revenue Officer Cameron Grounds also informed Council that as the previous application, all departments have signed off on the paperwork.

Council President Bartlett opened the floor for any public comments regarding this request. There being none, she closed the floor and asked for a motion.

Council Member Shaw moved to approve Resolution No. 2023-168-R. Council Member Wroblewski seconded. The roll call vote was taken and recorded as follows:

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

Motion carried.

Council Member Denzine thanked retiring Revenue Officer Cameron Grounds for all his years of service to the city. A round of applause from City Council and Mayor Finley was given.

**DEPARTMENTAL REPORTS**

**ENGINEERING**

**RESOLUTION NO. 2023-156-R: AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH S&ME FOR ENVIRONMENTAL CONSULTING SERVICES TO**

**DEVELOP AN ADEM-REQUIRED MONITORING PROGRAM AND A REVISED STORM WATER MOTORING PROGRAM PLAN (SWMPP) IN THE AMOUNT OF \$9,350 (TO BE PAID FROM THE STORMWATER USER FEE FUND)**

Council Member Spears moved to approve Resolution No. 2023-156-R. Council Member Shaw seconded. The vote was taken and recorded as follows:

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

Motion carried.

**FIRE & RESCUE**

**PROPOSED ORDINANCE NO. 2023-153: AMENDING THE CITY'S FIRE CODE, AS ADOPTED IN CHAPTER 8 OF THE CITY OF MADISON CODE OF ORDINANCES (FIRST READING)**

This is a first reading only

**HUMAN RESOURCES**

**RESOLUTION NO. 2023-149-R: AUTHORIZING CHANGES TO THE JOB CLASSIFICATION PLAN**

Human Resources Director Megan Zingarelli provided a brief description of the positions that the changes will affect.

Council Member Wroblewski moved to approve Resolution No. 2023-149-R. Council Member Powell seconded. Mayor Finley provided additional clarification for the added changes in the grade from the deputy positions. Council Member Powell asked if they were voting on all position changes. Council Member Wroblewski responded, yes all together. 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. 2023-163-R: ACCEPTANCE OF DEDICATION OF TRACT OF PROPERTY ALONG KYSER BOULEVARD FROM SMART LIVING, LLC FOR CITY RIGHT-OF-WAY.**

Council Member Powell moved to approve Resolution No. 2023-163-R. Council Member Shaw seconded. Council Member Powell asked where exactly it is located. Council Member Seifert asked if there was a picture. City Attorney Brian Kilgore apologized that he did not bring a picture to display but explained it is a small trapezoid piece of land, less than an acre next to Bradford Station. Council Member Seifert asked if this is along the railroad tracks or is it along the road. City Attorney Brian Kilgore responded it is along the road. Council Member Powell asked if it had to do with the development that went in a couple of years ago. Mayor Finley asked Director of Development Services Mary Beth Broeren if this would affect the greenway that would be going down there or if the land is just being given to the city. Mayor Finley then asked if they could table it to discuss further. Council Member Shaw asked if it benefits us any besides us mowing it. City Attorney Brian Kilgore apologized that he did not have enough information. Council President Bartlett explained they would need to have a motion to table it as there was already a motion and a second to approve. Council Member Seifert motioned to table **Resolution No. 2023-163-R.** Council Member Wroblewski seconded. The vote was taken and recorded as follows to table **Resolution No. 2023-163-R:**

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

Motion carried.

**RESOLUTION NO. 2023-160-R: AUTHORIZING A PERMISSIVE USE AGREEMENT WITH HUNTSVILLE UTILITIES FOR USE OF THE CITY TO UTILIZE HU PROPERTY NEAR MOSE CHAPEL ROAD**

Council Member Seifert moved to approve Resolution No. 2023-160-R. Council Member Shaw seconded. Mayor Finley added that Huntsville Utilities originally had this property for the possibility for a substation, but it is not needed right not. The city asked if they could use it until they need it and Huntsville Utilities said yes. The vote was taken and recorded as follows:

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

Motion carried.

**RESOLUTION NO. 2023-169-R: APPROVAL TO MOVE ELECTION OFFICERS TO A DIFFERENT POLLING LOCATION FOR SPECIAL ELECTION TO BE HELD ON MAY 9, 2023**

Council Member Wroblewski moved to approve Resolution No. 2023-160-R. Council Member Powell seconded. Council President Bartlett asked City Clerk-Treasurer Lisa D. Thomas if there have been any other changes. City Clerk-Treasurer Lisa D. Thomas responded that she had received notice that one of the workers was sick and they were unsure if she would be able to work. Council Member Wroblewski asked if the location would have enough people. City Clerk-Treasurer Lisa D. Thomas responded that they will be able to manage. The vote was taken and recorded as follows:

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

Motion carried.

**PLANNING**

**PROPOSED ORDINANCE NO. 2023-137: CONVERSION OF A PORTION OF AN OPEN EASEMENT TO AN UTILITY AND DRAINAGE EASEMENT LOCATED WITHIN LOTS 1-26 OF ACADIA AT ARLINGTON PARK SUBDIVISION (FIRST READING 4/24/2023)**

Council Member Powell moved to approve Ordinance No. 2023-137. 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.

**PROPOSED ORDINANCE NO. 2023-157: VACATION OF A PORTION OF A UTILITY AND DRAINAGE EASEMENT LOCATED WITHIN BELLAWOODS SUBDIVISION (FIRST READING)**

This is a first reading only

**RECREATION**

**RESOLUTION NO. 2023-166-R: AUTHORIZING AN AGREEMENT WITH RENEGADE FENCING FOR INSTALLATION OF PERIMETER FENCING AT THE KIDS KINGDOM PLAYGROUND IN DUBLIN PARK IN AN AMOUNT NOT TO EXCEED \$80,000 (TO BE PAID FROM RECREATION BUDGET)**

Council Member Seifert moved to approve Resolution No. 2023-166-R. Council Member Shaw seconded. Council Member Wroblewski asked if we would be planting additional trees, since several were removed. Director of Recreation Kory Alfred responded that the arborist said several of the previous trees were struck by lightning and that they would be installing double the trees. The vote was taken and recorded as follows:

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

Motion carried.

**RESOLUTION NO. 2023-167-R: AUTHORIZING AN AGREEMENT WITH PYRO SHOWS FOR INDEPENDENCE DAY CELEBRATION FIREWORKS SHOW IN AN AMOUNT NOT TO EXCEED \$14,999 (TO BE PAID FROM RECREATION BUDGET)**

Council Member Powell moved to approve Resolution No. 2023-167-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.

**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](mailto: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](mailto:citycouncil@madisonal.gov).*

**BERNADETTE MAYER (DISTRICT 5) HEATHERWOOD SUBDIVISION**

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

- Budget and planning
- Work on more current needs
- Population growth and needs
- City’s infrastructure
- City debt

**MARGI DALY (DISTRICT 6)**

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

- Problems reading agenda packets
- Online maps not readable
- Bids given to Parks and Recreation
- Type of trees planted at Dublin Park
- Dog feces being left behind at Homeplace Park
- Upcoming fireworks startling individuals with PTSD and dogs

**MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS**

None

**ADJOURNMENT**

Having no further business to discuss Council Member Wroblewski moved to adjourn.

The roll call vote was taken and recorded as follows:

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

Motion carried.

The meeting was adjourned at 6:47 p.m.

Minutes No. 2023-09-RG, dated May 8, 2023, read, approved and adopted this 22<sup>nd</sup> day of May 2023.

\_\_\_\_\_  
Council Member Maura Wroblewski  
District One

\_\_\_\_\_  
Council Member Connie Spears  
District Two

\_\_\_\_\_  
Council Member Teddy Powell  
District Three

\_\_\_\_\_  
Council Member Greg Shaw  
District Four

\_\_\_\_\_  
Council Member Ranae Bartlett  
District Five

\_\_\_\_\_  
Council Member Karen Denzine  
District Six

\_\_\_\_\_  
Council Member John Seifert  
District Seven

Concur:

\_\_\_\_\_  
Paul Finley, Mayor

Attest:

\_\_\_\_\_  
Lisa D. Thomas  
City Clerk-Treasurer

\_\_\_\_\_  
Mari Bretz  
Recording Secretary





**MINUTES NO. 2023-01-SP  
SPECIAL CALLED MEETING OF THE CITY COUNCIL  
OF THE CITY OF MADISON, ALABAMA  
May 16, 2023**

The Madison City Council met for a special called meeting on Tuesday, May 16, 2023, at 12:00 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 12:01p.m. by Council President Ranae Bartlett.

The following elected governing officials were 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	Absent
Council District No. 4 Greg Shaw	Present
Council District No. 5 Ranae Bartlett	Present
Council District No. 6 Karen Denzine	Present
Council District No. 7 John Seifert	Absent

City Officials in attendance were: City Clerk-Treasurer Lisa D. Thomas, Deputy City Clerk-Treasurer Kerri Sulyma, City Clerk Administrative Assistant Mari Bretz, Municipal Records Coordinator Lisa Ritz, and City Attorney Brian Kilgore.

Public in attendance: Jocelyn Broer, Margi Daly, Jennifer Coe

City Clerk-Treasurer Lisa D. Thomas appeared before Council to go over the following provisional ballots that were opened and counted as stated:

<b><u>County/District</u></b>	<b><u>Provisional ballot count</u></b>	
Madison County (all districts)	0-provisional ballots	
Limestone County (district 2)	2-Yes	1-No (1-No was uncured)
Limestone County (district 4)	0-Yes	1-No

City Clerk-Treasurer Lisa D. Thomas added that out of the five Limestone County provisional ballots that were counted, the Limestone County Board of Registrars approved four out of the five as valid and cured. With no other provisional votes, City Clerk-Treasurer Lisa D. Thomas presented council with Resolution No. 2023-176-R.

**RESOLUTION NO. 2023-176-R: CANVASSING AND DECLARING THE RESULTS OF THE SPECIAL MUNICIPAL ELECTION HELD ON MAY 9, 2023 (COUNCIL-MANAGER FORM OF GOVERNMENT)**

Council Member Spears moved to approve Resolution No. 2023-176-R. Council Member Denzine seconded. The vote was taken and recorded as follows:

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

Motion carried

**ADJOURNMENT**

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

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

Motion carried.

The meeting was adjourned at 12:12 p.m.

Minutes No. 2023-01-SP, dated May 16<sup>th</sup>, 2023, read, approved and adopted this 22<sup>nd</sup> day of May 2023.

\_\_\_\_\_  
Council Member Maura Wroblewski  
District One

\_\_\_\_\_  
Council Member Connie Spears  
District Two

\_\_\_\_\_  
Council Member Teddy Powell  
District Three

\_\_\_\_\_  
Council Member Greg Shaw  
District Four

\_\_\_\_\_  
Council Member Ranae Bartlett  
District Five

\_\_\_\_\_  
Council Member Karen Denzine  
District Six

\_\_\_\_\_  
Council Member John Seifert  
District Seven

Concur:

\_\_\_\_\_  
Paul Finley, Mayor

Attest:

\_\_\_\_\_  
Lisa D. Thomas  
City Clerk-Treasurer

\_\_\_\_\_  
Mari Bretz  
Recording Secretary

**RESOLUTION NO. 2023-176-R****A RESOLUTION CANVASSING AND DECLARING THE RESULTS OF A SPECIAL MUNICIPAL ELECTION HELD IN THE CITY OF MADISON, ALABAMA, ON TUESDAY, MAY 9, 2023, REGARDING A PROPOSED CHANGE TO THE COUNCIL MANAGER FORM OF GOVERNMENT**

**WHEREAS**, pursuant to Alabama Code Section 11-43A-3, the Madison County Judge of Probate called a Special Election to be conducted on May 9, 2023, for the qualified voters of the City of Madison to consider a ballot measure to transition from a Council-Mayor form of government to a Council- Manager form of government; and

**WHEREAS**, the Madison County Judge of Probate called said Special Election upon certifying that a petition from at least ten percent (10%) of the number of registered voters in the last City election had signed the petition to request the Special Election in compliance with Alabama Code Section 11-43A-1.1; and

**WHEREAS**, on March 13, 2023, the Council approved ballot language for the purpose of submitting to the qualified electors of the City to determine their will with respect to the following proposition:

Shall the council-manager form of government as provided by the Council-Manager Act of 1982 be adopted for the City of Madison consisting of seven members as follows: One member shall be the mayor elected at-large, who shall be a voting member of the Council, and six members shall be council members elected from single-member districts?

**WHEREAS**, notice of the said election was posted in three public places in the City and was published on March 15, 2023, in the *Madison County Record*, a newspaper published in Madison County and having general circulation in the City, Alabama Press Association-Speakin Out News, a weekly county wide newspaper, and in the *Athens News Courier*, a newspaper having general circulation in Limestone County, Alabama, including in the portion of the City of Madison located in Limestone County, and was posted in three (3) public places in the City of Madison on same said date in the form of the said notice, which date of publication was more than thirty days before the date of the said election, and having been on or before the second Tuesday of the second month next preceding the month in which the said election was held; and

**WHEREAS**, the election was held on the May 9<sup>th</sup>, 2023 between the hours of 7:00 a.m., and 7:00 p.m., being the legal hours provided by law for the holding of the election, and the ballots used in the election were in all respects in the forms therefor set out in Resolution Number 2023-049-R, and the officials who conducted the said election have

duly made and duly filed with the Council their respective reports, returns, and certificates; and

**WHEREAS**, the Council is required by law to canvass the returns of said election not later than noon on the Wednesday immediately following the election, and declare the results thereof, and at a meeting of the Council held at the hour of 12:00 noon on May 16, 2023 the Council has duly canvassed the said returns and ascertained the results of the said election with respect to the said proposition;

**NOW, THEREFORE, BE IT RESOLVED** and declared by the City Council of the City of Madison, as follows:

- (1) The recitations contained in the foregoing preambles are hereby found and declared to be true and are hereby adopted as a part of this resolution;
- (2) The Special Election was duly called, notice thereof was duly given, and the said election was duly held and the ballots used thereat were in all respects as provided by law;
- (3) At the Special Election on said proposition, the canvass of the returns indicated the following:

Council District	For the Proposed Change in Government	Against the Proposed Change in Government
1	217	617
2	165	402
3	151	452
4	136	468
5	338	861
6	252	812
7	293	1054
Limestone 2	48	184
Limestone 4	227	567
Absentee Ballots	32	142
<b>TOTALS</b>	1859	5559
Provisional Ballots	2	2
<b>TOTALS</b>	<b>1861</b>	<b>5561</b>

- (4) A majority of the qualified electors of the City voting in the election voted against the transition to a Council Manager form of government as enumerated in the Alabama Council-Manager Act of 1982.

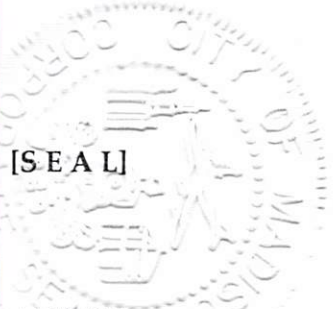


**BE IT FURTHER RESOLVED** that this resolution shall comprise the canvass and declaration by the Council of the results of the aforesaid election and shall be recorded in the minutes of the proceedings of the City.

**READ, PASSED, AND ADOPTED** this 16th day of May 2023.

*Ranae Bartlett*

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



**ATTEST:**

*Lisa D. Thomas*

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

**APPROVED** on this 18<sup>th</sup> day of May 2023.

*Paul Finley*

*Paul Finley, Mayor*  
City of Madison, Alabama

**RESOLUTION NO. 2023-165-R**

**WHEREAS**, on March 3, 2023 at 12 o'clock P.M., the K-9 and Animal Control Building suffered a wind loss due to severe thunderstorms.

**WHEREAS**, the insurance carrier for the City of Madison, Alabama Municipal Insurance Corporation, has submitted insurance payment to the City of Madison in the amount of \$4,369.00.

**NOW, THEREFORE, BE IT RESOLVED** that this is the final payment on this claim and the claim is now closed. The City of Madison does accept the final settlement offer in the amount of \$4,369.00 from Alabama Municipal Insurance Corporation for said wind loss damage and that the City Clerk-Treasurer is hereby authorized to execute any documents to accept said offer of settlement for the property loss associated with the incident.

**READ, PASSED, AND ADOPTED** this 22nd day of May, 2023

\_\_\_\_\_  
**Ranae Bartlett, Council President**  
**City of Madison, Alabama**

**ATTEST:**

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

**APPROVED** this \_\_\_\_ day of May, 2023

\_\_\_\_\_  
**Paul Finley, Mayor**  
**City of Madison, Alabama**

### SWORN STATEMENT IN PROOF OF LOSS TO

\$142,969,329.00  
Amount of Policy at Time of Loss

0094347281233  
Policy Number

10/1/22  
Policy Effective Date

Alabama Municipal Insurance Corporation  
INSURANCE COMPANY

AMIC  
Agency At

10/1/23  
Policy Expiration Date

Claim Number: 059515 JB

Mike Gardner  
Agent

By the above indicated policy of insurance you insured:

City of Madison

against loss by wind upon the property according to the terms and conditions of said policy and all forms, endorsements, transfers and assignments attached thereto.

**Time and Origin:** A wind loss occurred about 12 o'clock P.M. on the 3rd day of March, 2023. The cause and origin of said loss was: severe thunderstorms.

**Property Involved in Claim:** K-9 and Animal Control Bld.

**Occupancy:** The Building described, or containing the property described, was occupied at the time of loss as follows, and for no other purpose whatsoever: Animal Control Bld.

**Title and Interest:** At the time of the loss the interest of your insured in the property described therein was City of Madison. No other person or entity had any interest therein or encumbrance thereon, except: none.

**Changes:** Since the above policy was issued there has been no change in title, use or possession of said property except:

**The Total Insurance** covering the described property including this policy and all other policies (whether valid or not), binders or agreements to insure was at time of loss.....\$142,969,329.00

**Full Replacement Cost** of said property at time of loss.....\$ \_\_\_\_\_

**Full Cost of Repair of Replacement**..... \$ 5,369.00

**Applicable Depreciation**..... \$ \_\_\_\_\_

**Actual Cash Value Loss**.....  **Replacement Cost Loss**..... \$ 5,369.00  
**Less deductible and/or participation by the insured**..... \$ (100.00)

**Actual Cash Value Loss**.....  **Replacement Cost Loss**..... \$ 4,369.00

**Supplement Claim**, to be filed in accordance with the terms and conditions of the Replacement Cost Coverage within 180 days from date of loss will not exceed : \$0.00.

This loss did not originate by any act, design, or procurement of the insured, or the insured, or this subscriber, nothing has been done by or with the privity or consent of the insured or this subscriber to violate the conditions of the policy; no articles are mentioned herein or in annexed schedules but such as were in the building damaged or destroyed, belonging to and in possession of the insured at the time of loss: no property saved has been concealed and no attempt to deceive the company has been made. Any other information that may be required will be furnished and considered part of this proof.

It is expressly understood and agreed that the furnishing of this blank to the insured or the assistance of an adjuster, or any agent of the insured in making of this proof, is not a waiver of any rights of said insurer or any of the conditions of this policy.

\*Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or who knowingly presents false information in an application for insurance is guilty of a crime and may be subject to restitution fines or confinement in prison, or any combination thereof.

State of Alabama  
County of Madison

Insured \_\_\_\_\_  
By Mayor \_\_\_\_\_  
(Title)

Subscribed and sworn to before me this 18<sup>th</sup> day of May, 2023



Kristen N Bruseth Notary Public



**RESOLUTION NO. 2023-172-R**

**AUTHORIZING THE PURCHASE OF BULLET-RESISTANT VESTS  
FROM THE BUYBOARD NATIONAL PURCHASING COOPERATIVE**

**WHEREAS**, the Alabama Department of Examiners of Public Accounts has authorized purchasing through BuyBoard, which is a national, intergovernmental purchasing cooperative, through December 31, 2023; and

**WHEREAS**, the Police Department has requested the purchase of Safariland Summit bullet-resistant vests, as well as vest carriers, from GT Distributors of Georgia, Inc., (“GT Distributors”), to which BuyBoard has awarded a contract for public safety and firehouse supplies and equipment (Proposal No. 698-23); and

**WHEREAS**, the Police Department has verified that the bullet-resistant vests are not available for purchase on any bid that has been awarded by the State of Alabama; and

**WHEREAS**, the Police Department has verified that GT Distributors is an authorized dealer for said equipment and is a participating vendor with BuyBoard holding a valid Alabama business license;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Madison, Alabama, that the Purchasing Agent is hereby authorized to purchase bullet-resistant vests and vest carriers from GT Distributors via contract number 698-23 through the BuyBoard cooperative, subject to compliance with all rules and regulations set forth by the State of Alabama Department of Examiners of Public Accounts regarding cooperative purchasing opportunities and with all applicable City policies and regulations.

**READ, APPROVED, AND ADOPTED** this 22<sup>nd</sup> day of May 2023

\_\_\_\_\_  
*Ranae Bartlett, Council President*  
City of Madison, Alabama

**ATTEST:**

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

**APPROVED** this \_\_\_\_ day of May 2023

\_\_\_\_\_  
*Paul Finley, Mayor*  
City of Madison, Alabama

Location:  
401 Adams Avenue, Suite 280  
Montgomery, AL 36104-4338



Mailing Address:  
P.O. Box 302251  
Montgomery, AL 36130-2251  
Telephone (334) 242-9200  
Fax (334) 242-1775  
www.examiners.alabama.gov

**Rachel Laurie Riddle**  
**Chief Examiner**

October 1, 2022

**PUBLIC WORKS NOTICE:** This letter does not authorize the purchase of any goods or services from Buyboard related to “public works,” as defined in Section 39-2-1(6), *Ala. Code* (2011), until further notice. See also Section 39-2-2(d)(2), *Ala. Code* (2018), as amended by Act No. 2021-282.

Alabama County Commissions  
Alabama Municipalities  
City and County Boards of Education

To Whom It May Concern,

In accordance with Sections 16-13B-2(a)(13) and 41-16-51(a)(16), *Ala. Code* 1975, as amended by Act No. 2021-485, the Department has reviewed the competitive bidding process used by BuyBoard, a national, intergovernmental purchasing cooperative, created in accordance with Maryland and Rhode Island state statutes, for the contracts awarded as of the date of this letter. The Department did not identify any matters that were contrary to proper purchasing procedures or routine governmental procurement practices. Each contract was awarded by the Texas Association of School Boards, who served as the procurement administrator with BuyBoard’s Board of Directors, using established ranking criteria.

Based on the Department’s review, the competitive bid process used by BuyBoard is approved for use through **December 31, 2023**. This approval authorizes the purchase, lease, or lease/purchase of certain goods or services, other than voice or data wireless communication services, when certain statutory conditions are fulfilled. See Sections 16-13B-2(a)(13) and 41-16-51(a)(16), *Ala. Code* 1975, as amended by Act No. 2021-485.

Prior to utilizing BuyBoard, each governmental entity must verify that the goods or services to be purchased, leased, or lease/purchased are either not at the time available on the state purchasing program or are available at a price equal to or less than that on the state purchase program. *Id.* Further, any such purchases, leases, or lease/purchases must be made through a participating Alabama vendor holding an Alabama business license if such a vendor exists. *Id.*

Should the Department receive notice that BuyBoard or its awarded vendors are allowing Alabama governmental entities to make unauthorized purchases or other unlawful business transactions, BuyBoard’s competitive bid process approval will subject to immediate revocation by the Department.

If the Department can be of further assistance, please let us know.

Sincerely,

Rachel Laurie Riddle  
CHIEF EXAMINER

RLR/lbm



February 7, 2023

Sent Via Email: [txbids@gtdist.com](mailto:txbids@gtdist.com)

David Curtis  
GT Distributors, Inc.  
1124 New Meister Ln., Ste 100  
Pflugerville, TX 78660

Welcome to BuyBoard!

**Re:** *Notice of National Purchasing Cooperative Award*; Proposal Invitation No. 698-23, Public Safety and Firehouse Supplies and Equipment

Congratulations, The National Purchasing Cooperative (National Cooperative) has awarded your company a BuyBoard® contract based on the above-referenced Proposal Invitation. The contract is effective for an initial one-year term of April 1, 2023 through March 31, 2024, and may be subject to two possible one-year renewals. Please refer to the Proposal Invitation for the contract documents, including the National Purchasing Cooperative Vendor Award Agreement and General Terms and Conditions of the Contract.

To review the items your company has been awarded, please review Proposal Tabulation No. 698-23 at [www.buyboard.com/vendor](http://www.buyboard.com/vendor). Only items marked as awarded to your company are included in this contract award, and only those awarded items may be sold through the BuyBoard contract. All sales must comply with the contract terms and must be at or below the awarded pricing as set forth in the General Terms and Conditions.

The contract will be posted on the BuyBoard website as an online electronic catalog(s). **You are reminded that, in accordance with the General Terms and Conditions, all purchase orders from National Cooperative members must be processed through the BuyBoard.** Except as expressly authorized in writing by the Cooperative's administrator, you are not authorized to process a purchase order received directly from a National Cooperative member that has not been processed through the BuyBoard or provided to the Cooperative. If you receive a purchase order directly from a National Cooperative member that you have reason to believe has not been received by the National Cooperative or processed through the BuyBoard, you must promptly forward a copy of the purchase order by e-mail to [info@buyboard.com](mailto:info@buyboard.com)

A list of National Cooperative members is available on the [buyboard.com](http://buyboard.com) website. The BuyBoard vendor relations staff will be contacting you to assist with resources available and provide any support you may need as an awarded BuyBoard vendor.

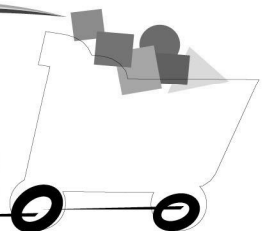
On behalf of the National Cooperative, we are looking forward to your participation in the program. If you have any questions, feel free to contact me at 800-695-2919.

Sincerely,

Leigh Clover, Bid Analyst  
Texas Association of School Boards, Inc.,  
Procurement Administrator for the National Purchasing Cooperative

v.02.01.2021

P.O. Box 400, Austin, Texas 78767-0400  
800.695.2919 • [buyboard.com](http://buyboard.com)





## The Local Government Purchasing Cooperative

For the Period 04/01/2023 to 03/31/2024

Final Catalog Award Report for Public Safety and Firehouse Supplies and Equipment 698-23

### 2. Discount (%) Off Catalog /Pricelist for **Tactical Equipment**

GT Distributors, Inc.	Ripoffs pricelist	1%	Yes
Range USA	Safariland pricelist	10%	No
GT Distributors, Inc.	Safariland Body Armor pricelist	45%	Yes
GT Distributors, Inc.	Safariland Duty Gear pricelist	30%	Yes
Nardis Public Safety	Safariland Duty Gear pricelist	15%	No
M-Pak, Inc.	Safariland pricelist	10%	No
Primary Arms, LLC	Safariland pricelist (0% - 31%)	0%	No
Clyde Armory, Inc.	Savvy Sniper pricelist	11%	Yes
GT Distributors, Inc.	Shield Arms pricelist	12%	Yes
Primary Arms, LLC	Sig Sauer pricelist	12%	Yes
GT Distributors, Inc.	Spec Ops Brand pricelist	5%	Yes
Federal Eastern International	Streamlight pricelist	25.1%	No
Primary Arms, LLC	Surefire pricelist	25%	Yes
Clyde Armory, Inc.	Surefire pricelist	5%	Yes
GT Distributors, Inc.	Surefire pricelist	0%	No
GT Distributors, Inc.	Tango Down pricelist	0%	Yes
Tri-County communications, LTD	TCC Catalog	10%	No
Rescue Gear, Inc.	Team Wendy pricelist (0% - 5%)	0%	Yes
Nardis Public Safety	THOROGOOD pricelist	15%	Yes
GT Distributors, Inc.	Troy Industries pricelist	18%	Yes
Primary Arms, LLC	Troy Industries pricelist	13%	No
Federal Eastern International	Tru Spec pricelist	20.1%	Yes
Nardis Public Safety	Tru Spec pricelist	15%	Yes
GT Distributors, Inc.	Uncle Mike's pricelist	41%	Yes
Federal Eastern International	UNDER ARMOR pricelist	18.1%	Yes
Nardis Public Safety	UNDER ARMOUR pricelist	15%	Yes
Federal Eastern International	United Shield pricelist	33%	Yes

**RESOLUTION NO. 2023-177-R**

**DECLARING POLICE BADGE AND DUTY WEAPON ISSUED TO OFFICER TROY VICKERS AS SURPLUS AND AUTHORIZING THEY BE GIVEN TO HIM UPON HIS RETIREMENT**

**WHEREAS**, the City of Madison owns personal property (formerly used by the Police Department) for which the City has no continuing need upon the retirement of Officer Troy Vickers, such property consisting of the following items used by Officer Troy Vickers:

<u>QUANTITY</u>	<u>DESCRIPTION</u>
One (1)	Glock 43X Serial BMNE197 Weapon
One (1)	Silver Duty Badge

and

**WHEREAS**, it is the desire of the City Council and the City of Madison to declare said personal property to be surplus and to direct that said property be given to the named individual upon his retirement from the City of Madison on June 1, 2023.

**READ, PASSED, AND ADOPTED** at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 22<sup>nd</sup> day of May, 2023.

\_\_\_\_\_  
*Ranae Bartlett, Council President*  
City of Madison, Alabama

**ATTEST:**

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

**APPROVED** this \_\_\_\_ day of May 2023.

\_\_\_\_\_  
*Paul Finley, Mayor*  
City of Madison, Alabama

**RESOLUTION NO. 2023-125-R****A RESOLUTION AUTHORIZING AN AGREEMENT FOR  
CITY EMPLOYEES TO USE THE HEXAGON WELLNESS CENTER**

**WHEREAS**, the City of Madison has limited space and facilities for employees of its Police Department and Fire Department to train and meet the physical fitness requirements for the performance of their duties; and

**WHEREAS**, it would benefit a public purpose for the City to enter a an agreement providing its Fire and Police employees with additional fitness facilities to meet their various fitness requirements; and

**WHEREAS**, it would also benefit a public purpose to allow all City employees to access fitness facilities to promote mental and physical health in an effort to enhance productivity amongst City employees; and

**BE IT HEREBY RESOLVED** by the City Council of the City of Madison, Alabama, that the Mayor is authorized and directed to execute an agreement to allow all City employees access the fitness and gym facilities for the Hexagon Wellness Center, said Agreement to be substantially similar in purpose, intent, and composition to that certain document attached hereto and identified as "License Agreement for use of Hexagon Wellness Center" 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 to Hexagon in the amount(s) and manner authorized by 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 22nd day of May 2023.

---

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

**ATTEST:**

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

**APPROVED** this \_\_\_\_ day of May 2023.

\_\_\_\_\_  
*Paul Finley, Mayor*  
**City of Madison, Alabama**

**LICENSE AGREEMENT**

**THIS LICENSE AGREEMENT** (this "Agreement") is entered into by and between the **City of Madison, Alabama**, a municipal corporation, with its principal place of business being located at 100 Hughes Road, Madison, Alabama 35758 (hereinafter "Licensee") and **Intergraph Improved Properties, LLC**, a Delaware limited liability company, with its principal place of business being located at 190 Graphics Drive, Madison, Alabama 35758 (hereinafter "Licensor").

**WHEREAS**, for the purposes hereinafter specified, Licensee seeks the privilege and permission of allowing all City of Madison employees (the "Permitted Employees") (including one guest of such Employee (a "Guest"; together with the Permitted Employees, the "Permitted Users")) the ability to utilize the gymnasium and all other physical fitness facilities at the Wellness Center located at 305 Intergraph Way, Madison, Alabama 35758 (hereinafter the "Facilities"); and

**WHEREAS**, it has been determined by Licensee's governing body that entry and use of said Facilities is in the public interest.

**NOW, THEREFORE**, intending to be legally bound, the parties agree as follows:

- 1. **Use.** Licensor hereby grants to Licensee a non-exclusive, non-sublicensable, revocable license to allow Permitted Users to enter upon and use the Facilities and the right of ingress and egress to and from the Facilities, subject to the terms and conditions herein (the "License").
- 2. **Term.**
  - a. This Agreement shall come into effect (the "Effective Date") when the authorized representatives of each party finally execute and affix their respective signatures hereto in their duly authorized capacities. In the event the signatures are affixed on different dates, the date of the final signature shall be the Effective Date.
  - b. This initial term of this Agreement shall be 12 months from the Effective Date (the "Initial Term"), which shall automatically renew for successive 12-month periods unless earlier terminated pursuant to the terms hereof (collectively, the "Term"). Each 12-month period of the Term is a "Yearly Term". Notwithstanding the foregoing, either party may terminate this License at any time and for any reason by giving thirty (30) days' written notice to the other party.
- 3. **Consideration.**
  - a. **Upfront Fee.** In exchange and in consideration for the License, Licensee shall pay to Licensor (or its designated affiliate) an annual fee of \$24,000 in advance



("Upfront Fee") of each Yearly Term, payable in one lump sum within 30 days from the start of each Yearly Term.

- b. True-up. Following the end of each Yearly Term, as soon as Licensor shall have determined the amount of the operating expenditures for such Yearly Term (including salaries and wages for Facilities staff, cost of maintenance and operation of the Facilities, and utilities costs for operation of the Facilities) (50% of such operating expenditures being the "Year-End OpEx Amount"), the Licensor shall present Licensee documentation, in reasonable detail with supporting calculations and information, detailing the Year-End OpEx Amount (the "True-Up Statement"). If the Year-End OpEx Amount is greater than the Upfront Fee, then Licensee shall pay to Licensor as promptly as possible an amount (the "Shortfall Payment Amount") equal to (a) the Year-End OpEx Amount, *minus* (b) the Upfront Fee. If the Year-End OpEx Amount is less than the Upfront Fee, then Licensor shall pay to Licensee as promptly as possible an amount (the "Excess Payment Amount") equal to (a) the Upfront Fee, *minus* (b) the Year-End OpEx Amount.
- c. Refund. To the extent the Licensee pays in advance for any Yearly Term, and this Agreement is terminated (except in the case of breach by the Licensee) prior to the expiration of a Yearly Term, then Licensee shall be entitled to a prorated refund of any portion of prepaid sums for the remainder of the unused Yearly Term.

#### **4. Terms and Conditions Applicable to License.**

- a. The License is subject to all existing covenants, conditions, reservations, contracts, leases, licenses, easements, encumbrances, restrictions and rights of way with respect to the Facilities, whether or not of record.
- b. Licensee shall provide a valid, updated list of all Permitted Employees each month of the Term and shall notify Licensor as soon as possible of any newly hired Permitted Employees or Permitted Employees that are terminated and no longer Permitted Employees.
- c. In order for a Guest to be authorized to use the Facilities as a Permitted User, such Guest must be appropriately added to the Permitted Employees account via the then-existing policies in place applicable to all other existing users of the Facilities.
- d. Licensor will provide Licensee and its Permitted Users with access to the Facilities in accord with its existing hours of operation, as may be updated from time to time.
- e. Subject to mutual agreement and pre-approval by Licensor, Licensor shall allow Licensee the ability to schedule (i) the basketball gymnasium at the Facilities for the Licensee's recreation league basketball games during basketball season, and (ii) usage of the back patio at the Facilities during certain pickleball tournaments.

- f. Licensee shall, and shall ensure its Permitted Users, follow any and all existing rules for use of the Facilities. Any individual violating said rules will constitute a breach hereunder and may be subject to removal and/or revocation of their privileges to use the Facilities.
  - g. Licensee shall ensure that trash apparently generated from Permitted Users, or Licensee's use of the License, is removed from the Facilities.
  - h. Licensee and its Permitted Users shall, at a minimum, be subject to and comply with the same procedures for reservation and/or use of the gymnasium as all other existing users of the Facilities.
  - i. Licensee shall, and shall ensure its Permitted Users, obey all laws, codes, ordinances and rules/policies of Licensor, including but not limited to, all regulations relating to traffic, health or safety.
  - j. Licensee shall not permit alcoholic beverages to be brought onto the Facilities and shall use its best efforts not to permit any person under the influence of alcoholic beverages to enter or remain upon the Facilities.
  - k. Licensee acknowledges that each Permitted Employee and/or any Guest shall be required to sign a waiver of liability prior to, and in order to, enter and access the Facilities.
5. **No Transfer or Assignment.** The License is personal to Licensee. Any attempt by Licensee to transfer, assign or sublease the License or this Agreement shall automatically terminate the same. Notwithstanding anything herein to the contrary, Licensor shall, at its sole and absolute discretion, be entitled to transfer or assign this Agreement and the License to any affiliate of Licensor, or to any successor-in-interest to any purchaser of the Facilities. Further, notwithstanding anything herein to the contrary, Licensor shall be entitled to terminate this Agreement immediately upon written notice to Licensee in the event of a sale of the Facilities. For avoidance of doubt, Licensee shall not be entitled to any notice or consent rights hereunder related to any sale of the Facilities by Licensor.
6. **Permits and Regulations.** Licensee shall be responsible for securing any required approvals, permits and authorizations from any federal, state or local agencies and shall comply with all applicable laws and regulations.
7. **No Interference.** Licensee shall not interfere with the normal operation and activities of Licensor, and Licensee shall, and shall ensure its Permitted Users, conduct any activities on the Facilities to minimize damage to the Facilities and inconvenience to Licensor, its agents, employees and invitees.
8. **Repair and Restoration.** If Licensee or any Permitted User causes any damage to the Facilities, Licensee shall repair and restore the Facilities to its original condition, i.e., the condition in which such Facilities were found prior to Licensee's use of the Facilities pursuant to the License. The Licensee requests prompt notice of any said damage upon Licensor's discovery of any such damage with an estimate for repair of such. Licensee shall promptly perform the repair and restoration required hereunder, but in no event

later than 30 days from Licensor’s delivery of notice of such damage and repair estimate. In the event that repair and restoration is performed following the termination of this Agreement, the Licensee’s Indemnity and Insurance obligations in Sections 12 and 13 shall continue until repair and restoration efforts are completed as provided herein.

- 9. **Breach and Cure.** In the event that Licensee or any Permitted User breaches any of the obligations or requirements under this Agreement, Licensor shall send Licensee written notice specifying the nature of such breach. To the extent capable of being cured, Licensee shall have fourteen (14) days from receipt of such notice within which to cure the stated breach. If the breach is incapable of cure or Licensee fails to cure or takes material actions to cure within such fourteen (14) day period, then Licensor shall have the right to terminate this Agreement immediately by serving Licensee with written notice of termination. Licensor shall have all rights and remedies available under Alabama law including, but not limited to, actions for damages and specific performance, for any breach of Licensee’s obligations hereunder.
- 10. **Alteration in Writing.** This Agreement supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement. No alteration or variation of this License shall be valid unless made in writing and signed by Licensor and Licensee.
- 11. **Notice.** Any notice required hereunder shall be in writing (including by e-mail delivery) and shall be addressed as follows:

**Licensee:**  
 Mayor  
 City of Madison  
 100 Hughes Road  
 Madison, Alabama 35758  
 Paul.Finley@madisonal.gov

**Copy to:**  
 City Attorney  
 City of Madison  
 100 Hughes Road  
 Madison, Alabama 35758  
 Brian.Kilgore@madisonal.gov

**Licensor:**  
 Jay Cobb  
 Denise Bates  
 Intergraph Improved Properties, LLC  
 P.O. Box 240000  
 Huntsville, Alabama 35813  
 jay.cobb@hexagon.com  
 denise.bates@hexagon.com

**Copy to:**  
 General Counsel  
 Hexagon/Intergraph  
 305 Intergraph Way  
 Madison, Alabama 35758  
 tony.zana@hexagon.com

- 12. **Indemnification.** To the extent allowed by law, Licensee hereby waives, acquits, and forever releases, and agrees to indemnify, defend and hold harmless Licensor, its affiliates and their respective officers, agents and employees, from and against any claims, damages, costs, expenses or liabilities (collectively “Claims”) arising from

Licensee's exercise of its rights under this Agreement including, without limitation, Claims for loss or damage to any property, or for death or personal or bodily injury to any person or persons, to the extent that such Claims arise from the negligent or intentional acts or omissions of Licensee, its officers, agents, partners, and/or any Permitted User.

**13. Insurance.**

- a. As owner of the licensed property, Intergraph Corporation shall be added as an Additional Insured to the City of Madison's liability policy with coverage in the following amounts and subject to the following limitations:
  1. Each Occurrence Limit: \$100,000.00
  2. Aggregate Limit: \$300,000.00
  3. Such coverage is limited to the assumption of liability for claims arising under this Agreement from the sole negligence of the Licensee's agents, employees, elected and appointed officials, and volunteers.
- b. Licensee shall maintain a policy of Workers' Compensation coverage as required by Alabama law.
- c. Licensee, upon the execution of this Agreement, shall furnish Licensor with certificates of insurance evidencing compliance with all requirements. Certificates shall provide for thirty (30) days' advance written notice to Licensor of any material modification, change or cancellation of the above insurance coverages.

**14. Mutual Waiver of Subrogation.** Licensee and Licensor each hereby waive any right of recovery against the other due to loss of or damage to their respective property, whether real or personal, when such loss of or damage to property arises out of an act of God or any of the property perils included in the classification of fire or extended perils ("all risk" as such term is used in the insurance industry) whether or not such perils have been insured, self-insured, or non-insured.

**15. Lien-Free Condition.** Licensee shall not cause or permit any liens to be placed against the Facilities or against Licensor's other property because of Licensee's exercise of rights under this License. In the event of the filing of any such liens, this Agreement shall automatically terminate, and Licensee shall promptly cause such liens to be removed.

**16. Miscellaneous.** This Agreement shall be governed by and construed in accordance with the laws of Alabama, without giving effect to any choice or conflict of law provision or rule. Each party irrevocably agrees that the courts of Madison County, Alabama, shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims). Each party shall do and perform, or cause to be done and performed,

all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set out in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

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

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

Attest:

By: \_\_\_\_\_  
Paul Finley, Mayor

\_\_\_\_\_  
Lisa D. Thomas, City Clerk-Treasurer

Date: \_\_\_\_\_

**STATE OF ALABAMA           §  
COUNTY OF MADISON       §**

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Paul Finley, whose name as Mayor of the City of Madison, and Lisa D. Thomas, whose name as City Clerk-Treasurer of the City of Madison, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, in their respective capacities as Mayor of the City of Madison and City Clerk-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 \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public

**Intergraph Improved Properties, LLC**

By: \_\_\_\_\_

P. Denise Bates

Its: Authorized Representative

Date: \_\_\_\_\_

**STATE OF ALABAMA                                   §**  
**COUNTY OF MADISON                               §**

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that P. Denise Bates, whose name as Authorized Representative of Intergraph Improved Properties, 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, she, as such representative and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public

**RESOLUTION NO. 2023-171-R**

**A RESOLUTION AUTHORIZING VIDEO RECORDING AND ARCHIVING OF THE MAY 17<sup>th</sup>, 2023, CITY COUNCIL WORK SESSION**

**WHEREAS**, the City Council adopted Resolution No. 2021-381-R to provide a policy for video streaming, recording and long-term archiving of City Council, Planning Commission and Zoning Board of Adjustment meetings; and

**BE IT HEREBY RESOLVED** by the City Council of the City of Madison, Alabama, that pursuant to Resolution No. 2022-184-R, the Council will require that the May 17<sup>th</sup>, 2023 City Council Work Session shall be live streamed, archived and made available for subsequent viewing;

**READ, PASSED, AND ADOPTED** at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on the 22<sup>nd</sup> day of May 2023.

\_\_\_\_\_  
*Ranae Bartlett, City Council President*  
City of Madison, Alabama

**ATTEST:**

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

**APPROVED** this \_\_\_\_ day of May 2023.

\_\_\_\_\_  
*Paul Finley, Mayor*  
City of Madison, Alabama



**ORDINANCE NO. 2023-155**

**AN ORDINANCE AUTHORIZING ACCEPTANCE OF IMPROVEMENTS TO A RIGHT OF WAY FROM THE UNIVERSITY OF ALABAMA HUNTSVILLE FOUNDATION**

**WHEREAS**, the University of Alabama Huntsville Foundation (herein "UAH Foundation"), as the fee simple owner of the parcel of real property described below, has offered to convey, by Deed, to the City of Madison, a right of way for public use (herein "the Right of Way") situated, lying and being in the City of Madison, Madison County, Alabama, to-wit:

TRACT 1, AS SHOWN ON THE PLAT OF THE UNIVERISTY OF ALABAMA HUNTSVILLE FOUNDATION SUBDIVISION, A PART OF THE NORTH HALF OF THE SOUTH HALF OF SECITO 19, TOWNSHIP 4 SOUTH, RANGE 2 WEST, CITY OF MADISION, MADISON COUNTY, ALABAMA, WHICH PLAT IS DATED MARCH 8, 2021 AND WAS RECORDED ON JULY 19, 2021 WITH THE PROBATE JUDGE OF MADISON COUNTY, FILE NO. 2021-0059085.

and,

**WHEREAS**, the City has requested that the UAH Foundation complete a number of improvements to the Right of Way and present a maintenance bond as a prerequisite for the City's acceptance of said Right of Way; and

**WHEREAS**, UAH Foundation represents and warrants that all prerequisite requirements have been completed; and

**WHEREAS**, the City Council finds and determines that the City will benefit from the acceptance of such Right of Way and that the public will benefit from the Right of Way and its improvements for public use;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Madison, Alabama, that the above-described property is hereby accepted into maintenance from the UAH Foundation, and that the appropriate City employees and the Mayor of the City of Madison are authorized to take all necessary actions required to effectuate such acceptance and conceyance.

**READ, APPROVED, AND ADOPTED** this 22<sup>nd</sup> day of May 2023.

\_\_\_\_\_  
*Ranae Bartlett, Council President*  
City of Madison, Alabama

**ATTEST:**

---

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

**APPROVED** this \_\_\_\_ day of May 2023.

---

*Paul Finley, Mayor*  
**City of Madison, Alabama**

STATE OF ALABAMA  
COUNTY OF MADISON

**RIGHT OF WAY DEED**

KNOW ALL MEN BY THESE PRESENTS, that for good and valuable consideration, the undersigned **THE UNIVERSITY OF ALABAMA HUNTSVILLE FOUNDATION**, herein referred to as Grantor, does by these presents dedicate and convey for a public right of way unto **THE CITY OF MADISON, ALABAMA**, an Alabama municipality, herein referred to as Grantee, its successors and assigns, in fee simple, all right, title and interest in and to the following described real estate situated in the County of Madison, State of Alabama, to-wit:

TRACT 1, AS SHOWN ON THE PLAT OF THE UNIVERSITY OF ALABAMA HUNTSVILLE FOUNDATION SUBDIVISION, A PART OF THE NORTH HALF OF THE SOUTH HALF OF SECTION 19, TOWNSHIP 4 SOUTH, RANGE 2 WEST, CITY OF MADISON, MADISON COUNTY, ALABAMA, WHICH PLAT IS DATED MARCH 8, 2021 AND WAS RECORDED ON JULY 19, 2021 WITH THE PROBATE JUDGE OF MADISON COUNTY, FILE NO. 2021-0059085.

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

*(signatures on following pages)*

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be executed by its duly authorized chairman to be effective on the 5 day of May, 2023.

**THE UNIVERSITY OF ALABAMA  
HUNTSVILLE FOUNDATION**

By: [Signature]  
**S. Dagnal Rowe**  
Its: Chairman

STATE OF ALABAMA     )  
COUNTY OF MADISON    )

I, the undersigned, a notary public in and for said county in said state, hereby certify that **S. Dagnal Rowe**, whose name as the chairman of **THE UNIVERSITY OF ALABAMA HUNTSVILLE FOUNDATION**, 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 such instrument, he, as such chairman and with full authority, executed the same voluntarily for and as the act of said organization.

Given under my hand and official seal this 5 day of May, 2023.

Notary Public: [Signature]  
My Commission Expires: 9-24-24

[ Notarial Seal ]



OFFICIAL CHECK

85-129/842

BRANCH 2023



DATE May 12, 2023

Corporate Offices  
Tupelo, MS

\$ \*\*\*\*\*65,191.47

PAY TO THE ORDER OF

\*City of Madison\*

SIXTY FIVE THOUSAND ONE HUNDRED NINETY ONE DOLLARS AND FORTY SEVEN CENTS

NAME OF REMITTER

The Westmoreland Company

Notice to Customer:  
The purchase of an indemnity bond may be required before this check will be replaced or refunded in the event it is lost, misplaced or stolen.



ADDRESS

Maintenance Bond

BY *Carolyn Hall*  
AUTHORIZED SIGNATURE

OFFICIAL CHECK



85-129/842

BRANCH 2023

DATE May 12, 2023

Corporate Offices  
Tupelo, MS

\$ \*\*\*\*\*65,191.47

\*City of Madison\*

SIXTY FIVE THOUSAND ONE HUNDRED NINETY ONE DOLLARS AND FORTY SEVEN CENTS

The Westmoreland Company

Maintenance Bond

CUSTOMER COPY

*Carolyn Hall*  
~~NON-NEGOTIABLE~~





**CITY OF MADISON, ALABAMA**  
**MAINTENANCE BOND FOR SUBDIVISION IMPROVEMENTS**

Subdivision: University of Alabama Huntsville Foundation Subdivision

Principal: The Westmoreland Company, Inc.

Bond No: \_\_\_\_\_ Amount: \$65,191.47 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 5<sup>th</sup> day of May, 2023

Emily Morrison  
WITNESS

PRINCIPAL  
By: [Signature]  
Its: President

APPROVED:  
  
\_\_\_\_\_  
City Engineer

\_\_\_\_\_  
Date

ACCEPTED:  
  
CITY OF MADISON  
  
\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

ATTEST:  
  
\_\_\_\_\_  
City Clerk - Treasurer



**RESOLUTION NO. 2023-173-R**

**A RESOLUTION AUTHORIZING PROFESSIONAL SERVICES  
AGREEMENT WITH ARMSTRONG & SASSO APPRAISAL COMPANY,  
LLC**

**BE IT HEREBY RESOLVED** by the City Council of the City of Madison, Alabama, that the Mayor is authorized and directed to execute on behalf of the City a Professional Services Agreement with Armstrong & Sasso Appraisal Company, LLC, for land appraisal on Project No. 20-008 for replacement of the Brown's Ferry Road box culvert, said Agreement to be substantially similar in purpose, intent, and composition to that certain document attached hereto and identified as "Professional Services Agreement," and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same; and

**BE IT FURTHER RESOLVED** that, except for the extension or cancellation of the 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 duly adopted budget for the then-current fiscal year; and

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

**READ, PASSED, AND ADOPTED** at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 22<sup>nd</sup> day of May 2022.

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

**ATTEST:**

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

**APPROVED** this 9<sup>th</sup> day of May, 2022.

\_\_\_\_\_  
*Paul Finley, Mayor*  
City of Madison, Alabama

**PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** for professional services is made by and between the City of Madison, Alabama, a municipal corporation located at 100 Hughes Road, Madison, Alabama 35758, hereinafter referred to as "City," and Armstrong & Sasso Appraisal Company, LLC located at 287 "A" Taylor Road Hampton Cove, AL 35763, hereinafter referred to as "Consultant."

**WITNESS TO:**

**WHEREAS**, the City of Madison is in need of an appraisal of land near the Brown's Ferry Road box culvert replacement requiring land acquisition for the project; and

**WHEREAS**, the best interests of the City and its residents will be served by retaining an experienced provider of such services; and

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

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

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

**SECTION 1: SCOPE OF WORK**

- A. Pursuant to the provisions of this Agreement, Consultant will provide the following services to City:

*Provide land appraisal services for property needed to complete the proposed Brown's Ferry Road box culvert replacement.*

- B. Consultant agrees to comply with all applicable Federal, State, and Local laws and regulations, including, but not limited to, those pertaining to wages and hours of employment. By signing this Agreement, the parties affirm, for the duration hereof, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a party found to be in violation of this provision shall

be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

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

## **SECTION 2: EXPENSE STRUCTURE; OPTIONAL SERVICES & FEES**

- A. The total compensation for services rendered by Consultant pursuant to Section 1.A. shall be an amount not to exceed **five thousand dollars (\$5,000.00)**, payable as services are rendered and invoiced to City. Consultant is solely responsible for submission of invoices outlining the work performed and the payment due from City, terms net thirty (30) days.

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

**SECTION 3: INDEMNIFICATION & INSURANCE**

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

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

**SECTION 4: COMMENCEMENT; TERM**

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

**SECTION 5: TERMINATION**

This Agreement may be terminated by either party, with or without cause, upon the provision of thirty (30) days’ notice to the other party. In the event of termination, Consultant

shall be entitled to payment only for services rendered as of the date of termination, and City shall be entitled to receive only that work product created by Consultant as of the date of termination.

#### **SECTION 6: INDEPENDENT CONTRACTOR RELATIONSHIP**

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

#### **SECTION 7: EXCUSED PERFORMANCE**

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

#### **SECTION 8: ASSIGNMENT**

Neither Consultant nor City may assign or transfer this Agreement or any part thereof without the express, written consent of the other party.

#### **SECTION 9: ENTIRE AGREEMENT: WAIVER**

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

#### **SECTION 10: NOTICES**

All notices to City shall be addressed to:

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

All notices to Consultant shall be addressed to:

*Tom Armstrong, MAI  
Armstrong & Sasso Appraisal Company, LLC  
287 "A" Taylor Road  
Hampton, AL 35763*

**SECTION 11: GOVERNING LAW**

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

**SECTION 12: MISCELLANEOUS PROVISIONS**

- A. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.
- B. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.
- C. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.
- D. The headings of each section are inserted for reference purposes only. Any conflict between a descriptive heading and the content of the section shall be resolved in favor of the language contained in the section.

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

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

**Attest:**

By: \_\_\_\_\_  
Paul Finley, Mayor Lisa Thomas, City Clerk-Treasurer

Date: \_\_\_\_\_

STATE OF ALABAMA §

§

COUNTY OF MADISON §

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

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

\_\_\_\_\_  
Notary Public



**Armstrong & Sasso Company, LLC  
Consultant**

By: \_\_\_\_\_  
\_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF ALABAMA   §

§

COUNTY OF MADISON   §

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

Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public



**APPRAISAL  
COMPANY, LLC**  
**ARMSTRONG & SASSO**

May 3, 2023

Ms. Michelle Dunson, PE, CFM  
City of Madison  
100 Hughes Road, Madison, AL 35758

**RE: APPRAISAL: *Tracts #1 and #2 - Brownsferry Rd Box Culvert Replacement Project***  
***Tract #1 - Christy Nickelson (14.60 ac);***  
***Tract #2 - Heritage Station HOA (6.98 ac)***

Dear Client,

This letter will confirm our engagement to prepare appraisal reports for the above mentioned property. The appraisal reports will be prepared and addressed to Ms. Michelle Dunson, City of Madison AL (edit if necessary), unless notified otherwise. The purpose of these appraisals is to estimate the Before and After market value of the above referenced property or partial acquisition as of the date of inspection. The intended use of the reports is for use by officials of the City of Madison County in making decisions regarding appropriate and equitable compensation to be paid to private property owners for the interests to be acquired by the client.

The appraisals will be reported in a narrative format using applicable ALDOT appraisal forms and format. A PDF of each appraisal report will be prepared meeting the requirements of the Uniform Standards or Professional Appraisal Practice (USPAP) and the State of Alabama. If you require any hard copies, please notify us prior to delivery of the report. The appraisal reports will be delivered to you on or before June 15, 2023. This delivery date may, however, be extended if all appropriate information necessary to complete the appraisal is not provided to the appraiser in a timely manner. The fee for the appraisal services will not exceed the following: Tract #1 \$2,500.00 and Tract #2: \$2,500.00

At or prior to the inspection of the Property a retainer of \$00 is due. Upon delivery of the appraisal, the invoice will be presented to you directly and payment of the full or remainder (full, less retainer) appraisal fee will be due. Thank you!

I/We agree to the terms of this engagement letter.



Thomas Armstrong, MAI

5/3/2023  
Date

## Page #2 - Engagement Letter, continued

Additional Assignment Parameters:

### *TESTIMONY AT COURT OR OTHER PROCEEDINGS*

Unless otherwise stated in this Agreement, Client agrees that Appraiser's assignment pursuant to this Agreement shall not include the Appraiser's participation in or preparation for, whether voluntarily or pursuant to subpoena, any oral or written discovery, sworn testimony in a judicial, arbitration or administrative proceeding, or attendance at any judicial, arbitration, or administrative proceeding relating to this assignment.

### *CONFIDENTIALITY*

Appraiser shall not provide a copy of the written Appraisal Report to, or disclose the results of the appraisal prepared in accordance with this Agreement with, any party other than Client, unless Client authorizes, except as stipulated in the Confidentiality Section of the ETHICS RULE of the Uniform Standards of Professional Appraisal Practice (USPAP).

### *APPRAISER INDEPENDENCE*

Appraiser cannot agree to provide a value opinion that is contingent on a predetermined amount. Appraiser cannot guarantee the outcome of the assignment in advance. Appraiser cannot insure that the opinion of value developed as a result of this Assignment will serve to facilitate any specific objective by Client or others or advance any particular cause. Appraiser's opinion of value will be developed competently and with independence, impartiality and objectivity.

RESOLUTION NO. 2023-179-R

A RESOLUTION AUTHORIZING PROPERTY ACQUISITION FOR THE MADISON BRANCH BOULEVARD ROUNDABOUT PROJECT

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

- 1. That in the judgment and opinion of the City Council of the City of Madison, it is in the public interest and necessary and expedient that the City of Madison acquire certain rights-of-way, permanent, exclusive utility and drainage easements, and temporary construction easements (the "Tracts") on, over, across and upon the following described parcel of land, to-wit, that certain parcel currently owned by Tucker Family Fund, LLC, by Attached Exhibit A, B and C.
2. Exhibit A: Warranty Deed depicts the Tract to be acquired for a right of way for the expressed purpose of constructing the proposed Madison Branch Boulevard Roundabout (herein "the Project"). The Tract is further described as follows:

STATE OF ALABAMA)
LIMESTONE COUNTY)

A PARCEL OF LAND LOCATED IN THE NORTHWEST CORNER OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 3WEST OF THE HUNTSVILLE MERIDIAN IN MADISON COUNTY, ALABAMA; BEING MORE PARTICULARLY DESCRIBEDAS FOLLOWS:

COMMENCING AT A ROCK MARKING THE SAID NORTHWEST CORNER OF SECTION 13, THENCE SOUTH 87 DEGREES 30 MINUTES 21 SECONDS EAST, FOR A DISTANCE OF 1298.11 FEET TO THE POINT OF BEGINNING. THENCE FROM THE POINT OF BEGINNING, SOUTH 71 DEGREES 55 MINUTES 52 SECONDS EAST FOR A DISTANCE OF 39.32 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 11 DEGREES 34 MINUTES 47 SECONDS, HAVING A RADIUS OF 305.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 77 DEGREES 43 MINUTES 16 SECONDS EAST FOR A DISTANCE OF 61.54 FEET; THENCE, SOUTH 83 DEGREES 30 MINUTES 39 SECONDS EAST FOR A DISTANCE OF 574.66 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE LEFT THROUGH 16 DEGREES 07 MINUTES 10 SECONDS, HAVING A RADIUS OF 262.20 FEET, AND WHOSE LONG CHORD BEARS NORTH 88 DEGREES 25 MINUTES 46 SECONDS EAST FOR A DISTANCE OF 73.52 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH 33 DEGREES 38 MINUTES 49 SECONDS, HAVING A RADIUS OF 33.62 FEET, AND WHOSE LONG

CHORD BEARS NORTH 63 DEGREES 32 MINUTES 47 SECONDS EAST FOR A DISTANCE OF 19.74 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH 79 DEGREES 15 MINUTES 22 SECONDS, HAVING A RADIUS OF 102.00 FEET, AND WHOSE LONG CHORD BEARS NORTH 86 DEGREES 21 MINUTES 28 SECONDS EAST FOR A DISTANCE OF 130.11 FEET TO THE BEGINNING OF ANON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 19 DEGREES 54 MINUTES 06 SECONDS, HAVING A RADIUS OF 99.23 FEET, AND WHOSE LONG CHORD BEARS SOUTH 63 DEGREES 57 MINUTES 48 SECONDS EAST FOR A DISTANCE OF 34.29 FEET; THENCE, SOUTH 73 DEGREES 54 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 35.79 FEET TO A POINT; THENCE, SOUTH 89 DEGREES 45 MINUTES 42 SECONDS EAST FOR A DISTANCE OF 272.68 FEET TO A POINT; THENCE, SOUTH 00 DEGREES 12 MINUTES 12 SECONDS WEST FOR A DISTANCE OF 10.90 FEET TO A POINT, POINT LYING ON THE EXISTING NORTHERN RIGHT OF WAY LINE OF HARDIMAN ROAD (PUBLIC RIGHT OF WAY VARIES); THENCE, ALONG SAID NORTHERN MARGIN OF HARDIMAN ROAD, NORTH 89 DEGREES 32 MINUTES 57 SECONDS WEST FOR A DISTANCE OF 204.77 FEET TO A POINT; THENCE, NORTH 86 DEGREES 13 MINUTES 07 SECONDS WEST FOR A DISTANCE OF 106.41 FEET TO A POINT, POINT BEING THE TERMINUS OF THE NORTHERN RIGHT OF WAY MARGIN OF HARDIMAN ROAD AND THE BEGINNING OF THE NORTHERN RIGHT OF WAY OF MADISON BRANCH BOULEVARD (FORMERLY HALSEY DRIVE - PUBLIC RIGHT OF WAY VARIES); THENCE, ALONG SAID NORTHERN MARGIN OF MADISON BRANCH BOULEVARD, NORTH 88 DEGREES 38 MINUTES 41 SECONDS WEST FOR A DISTANCE OF 435.20 FEET TO A POINT; THENCE, NORTH 85 DEGREES 43 MINUTES 50 SECONDS WEST FOR A DISTANCE OF 250.22 FEET TO A POINT; THENCE, SOUTH 06 DEGREES 29 MINUTES 21 SECONDS WEST FOR A DISTANCE OF 20.78 FEET TO A POINT, POINT BEING THE TERMINUS OF MADISON BRANCH BOULEVARD RIGHT OF WAY; THENCE, NORTH 72 DEGREES 44 MINUTES 39 SECONDS WEST FOR A DISTANCE OF 239.96 FEET TO A POINT; THENCE NORTH 00 DEGREES 10 MINUTES 05 SECONDS WEST A DISTANCE OF 20.19 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.57 ACRES (24756 SQUARE FEET), MORE OR LESS.

3. **Exhibit B: Utility and Drainage Easement Deed** depicts the necessary easements the City is required to obtain near the Madison Branch Boulevard Roundabout (herein “the Project”). The Utility and Drainage Easement is further described as follows:

STATE OF ALABAMA)

LIMESTONE COUNTY)

A PARCEL OF LAND LOCATED IN THE NORTHWEST CORNER OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 3 WEST OF THE HUNTSVILLE MERIDIAN IN MADISON COUNTY, ALABAMA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A ROCK MARKING THE SAID NORTHWEST CORNER OF SECTION 13, THENCE SOUTH 87 DEGREES 30 MINUTES 21 SECONDS EAST, FOR A DISTANCE OF 1298.11 FEET TO THE POINT OF BEGINNING. THENCE FROM THE POINT OF BEGINNING, NORTH 00 DEGREES 10 MINUTES 05 SECONDS WEST FOR A DISTANCE OF 15.79 FEET TO A POINT; THENCE, SOUTH 71 DEGREES 55 MINUTES 52 SECONDS EAST FOR A DISTANCE OF 44.26 FEET TO THE BEGINNING OF A CURVE; SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 11 DEGREES 34 MINUTES 47 SECONDS, HAVING A RADIUS OF 290.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 77 DEGREES 43 MINUTES 16 SECONDS EAST FOR A DISTANCE OF 58.51 FEET; THENCE, SOUTH 83 DEGREES 30 MINUTES 39 SECONDS EAST FOR A DISTANCE OF 574.66 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE LEFT THROUGH 16 DEGREES 07 MINUTES 10 SECONDS, HAVING A RADIUS OF 247.20 FEET, AND WHOSE LONG CHORD BEARS NORTH 88 DEGREES 25 MINUTES 46 SECONDS EAST FOR A DISTANCE OF 69.32 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH 33 DEGREES 38 MINUTES 55 SECONDS, HAVING A RADIUS OF 18.62 FEET, AND WHOSE LONG CHORD BEARS NORTH 63 DEGREES 32 MINUTES 47 SECONDS EAST FOR A DISTANCE OF 10.78 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH 79 DEGREES 15 MINUTES 22 SECONDS, HAVING A RADIUS OF 117.00 FEET, AND WHOSE LONG CHORD BEARS NORTH 86 DEGREES 21 MINUTES 26 SECONDS EAST FOR A DISTANCE OF 149.25 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 19 DEGREES 54 MINUTES 06 SECONDS, HAVING A RADIUS OF 84.23 FEET, AND WHOSE LONG CHORD BEARS SOUTH 63 DEGREES 57 MINUTES 48 SECONDS EAST FOR A DISTANCE OF 29.11 FEET; THENCE, SOUTH 73 DEGREES 54 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 6.14 FEET TO A POINT; THENCE, NORTH 17 DEGREES 28 MINUTES 34 SECONDS EAST FOR A DISTANCE OF 25.58 FEET TO A POINT; THENCE, SOUTH 72 DEGREES 31 MINUTES 26 SECONDS EAST FOR A DISTANCE OF 5.00 FEET TO A POINT; THENCE, SOUTH 17 DEGREES 28 MINUTES 34 SECONDS WEST FOR A DISTANCE OF 25.46 FEET TO A POINT; THENCE, SOUTH 73 DEGREES 54 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 22.57 FEET TO A POINT; THENCE, SOUTH 89 DEGREES 45 MINUTES 42 SECONDS EAST FOR A DISTANCE OF 270.59 FEET TO A POINT; THENCE, SOUTH 00 DEGREES 12 MINUTES 12 SECONDS WEST FOR

A DISTANCE OF 15.00 FEET TO A POINT; THENCE, NORTH 89 DEGREES 45 MINUTES 42 SECONDS WEST FOR A DISTANCE OF 272.68 FEET TO A POINT; THENCE, NORTH 73 DEGREES 54 MINUTES 51 SECONDS WEST FOR A DISTANCE OF 35.79 FEET TO THE BEGINNING OF A CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH 19 DEGREES 54 MINUTES 06 SECONDS, HAVING A RADIUS OF 99.23 FEET, AND WHOSE LONG CHORD BEARS NORTH 63 DEGREES 57 MINUTES 48 SECONDS WEST FOR A DISTANCE OF 34.29 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH 79 DEGREES 15 MINUTES 22 SECONDS, HAVING A RADIUS OF 102.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 86 DEGREES 21 MINUTES 28 SECONDS WEST FOR A DISTANCE OF 130.11 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH 33 DEGREES 38 MINUTES 49 SECONDS, HAVING A RADIUS OF 33.62 FEET, AND WHOSE LONG CHORD BEARS SOUTH 63 DEGREES 32 MINUTES 47 SECONDS WEST FOR A DISTANCE OF 19.74 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 16 DEGREES 07 MINUTES 10 SECONDS, HAVING A RADIUS OF 262.20 FEET, AND WHOSE LONG CHORD BEARS SOUTH 88 DEGREES 25 MINUTES 46 SECONDS WEST FOR A DISTANCE OF 73.52 FEET; THENCE, NORTH 83 DEGREES 30 MINUTES 39 SECONDS WEST FOR A DISTANCE OF 574.66 FEET TO THE BEGINNING OF A CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 11 DEGREES 34 MINUTES 47 SECONDS, HAVING A RADIUS OF 305.00 FEET, AND WHOSE LONG CHORD BEARS NORTH 77 DEGREES 43 MINUTES 16 SECONDS WEST FOR A DISTANCE OF 61.54 FEET; THENCE NORTH 71 DEGREES 55 MINUTES 52 SECONDS WEST A DISTANCE OF 39.32 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.43 ACRES (18927 SQUARE FEET), MORE OR LESS.

- 4. **EXHIBIT C: Temporary Easement Deed** depicts the proposed temporary construction easement necessary to access property during the construction of the Project. The location of the Temporary Easement is described as follows:

STATE OF ALABAMA)  
LIMESTONE COUNTY)

A PARCEL OF LAND LOCATED IN THE NORTHWEST CORNER OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 3 WEST AND THE SOUTHWEST CORNER OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 3 WEST OF THE HUNTSVILLE MERIDIAN IN MADISON COUNTY, ALABAMA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:



COMMENCING AT A ROCK MARKING THE SAID NORTHWEST CORNER OF SECTION 13, THENCE SOUTH 88 DEGREES 12 MINUTES 09 SECONDS EAST, FOR A DISTANCE OF 1297.47 FEET TO THE POINT OF BEGINNING. THENCE FROM THE POINT OF BEGINNING, NORTH 00 DEGREES 10 MINUTES 05 SECONDS WEST FOR A DISTANCE OF 36.85 FEET TO A POINT ON A LINE; THENCE, SOUTH 71 DEGREES 55 MINUTES 52 SECONDS EAST FOR A DISTANCE OF 55.79 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 11 DEGREES 34 MINUTES 47 SECONDS, HAVING A RADIUS OF 255.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 77 DEGREES 43 MINUTES 15 SECONDS EAST FOR A DISTANCE OF 51.45 FEET; THENCE, SOUTH 83 DEGREES 30 MINUTES 39 SECONDS EAST FOR A DISTANCE OF 574.66 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE LEFT THROUGH 14 DEGREES 50 MINUTES 47 SECONDS, HAVING A RADIUS OF 212.20 FEET, AND WHOSE LONG CHORD BEARS NORTH 89 DEGREES 03 MINUTES 57 SECONDS EAST FOR A DISTANCE OF 54.83 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH 77 DEGREES 18 MINUTES 19 SECONDS, HAVING A RADIUS OF 152.00 FEET, AND WHOSE LONG CHORD BEARS NORTH 87 DEGREES 19 MINUTES 59 SECONDS EAST FOR A DISTANCE OF 189.88 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 19 DEGREES 54 MINUTES 06 SECONDS, HAVING A RADIUS OF 49.23 FEET, AND WHOSE LONG CHORD BEARS SOUTH 63 DEGREES 57 MINUTES 45 SECONDS EAST FOR A DISTANCE OF 17.02 FEET; THENCE, SOUTH 73 DEGREES 54 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 28.84 FEET TO A POINT ON A LINE; THENCE, SOUTH 89 DEGREES 45 MINUTES 42 SECONDS EAST FOR A DISTANCE OF 265.69 FEET TO A POINT ON A LINE; THENCE, SOUTH 00 DEGREES 12 MINUTES 12 SECONDS WEST FOR A DISTANCE OF 35.00 FEET TO A POINT ON A LINE; THENCE, NORTH 89 DEGREES 45 MINUTES 42 SECONDS WEST FOR A DISTANCE OF 270.59 FEET TO A POINT ON A LINE; THENCE, NORTH 73 DEGREES 54 MINUTES 51 SECONDS WEST FOR A DISTANCE OF 22.57 FEET TO A POINT ON A LINE; THENCE, NORTH 17 DEGREES 28 MINUTES 34 SECONDS EAST FOR A DISTANCE OF 25.46 FEET TO A POINT ON A LINE; THENCE, NORTH 72 DEGREES 31 MINUTES 26 SECONDS WEST FOR A DISTANCE OF 5.00 FEET TO A POINT ON A LINE; THENCE, SOUTH 17 DEGREES 28 MINUTES 34 SECONDS WEST FOR A DISTANCE OF 25.58 FEET TO A POINT ON A LINE; THENCE, NORTH 73 DEGREES 54 MINUTES 51 SECONDS WEST FOR A DISTANCE OF 6.14 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE RIGHT THROUGH 19 DEGREES 54 MINUTES 06 SECONDS, HAVING A RADIUS OF 84.23 FEET, AND WHOSE LONG CHORD BEARS NORTH 63 DEGREES 57 MINUTES 48 SECONDS WEST FOR A DISTANCE OF 29.11 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH 79 DEGREES 15 MINUTES 22 SECONDS, HAVING A RADIUS OF 117.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 86 DEGREES 21



MINUTES 26 SECONDS WEST FOR A DISTANCE OF 149.25 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH 33 DEGREES 38 MINUTES 55 SECONDS, HAVING A RADIUS OF 18.62 FEET, AND WHOSE LONG CHORD BEARS SOUTH 63 DEGREES 32 MINUTES 47 SECONDS WEST FOR A DISTANCE OF 10.78 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 16 DEGREES 07 MINUTES 10 SECONDS, HAVING A RADIUS OF 247.20 FEET, AND WHOSE LONG CHORD BEARS SOUTH 88 DEGREES 25 MINUTES 46 SECONDS WEST FOR A DISTANCE OF 69.32 FEET; THENCE, NORTH 83 DEGREES 30 MINUTES 39 SECONDS WEST FOR A DISTANCE OF 574.66 FEET TO THE BEGINNING OF A CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 11 DEGREES 34 MINUTES 47 SECONDS, HAVING A RADIUS OF 290.00 FEET, AND WHOSE LONG CHORD BEARS NORTH 77 DEGREES 43 MINUTES 16 SECONDS WEST FOR A DISTANCE OF 58.51 FEET; THENCE NORTH 71 DEGREES 55 MINUTES 52 SECONDS WEST A DISTANCE OF 44.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.00 ACRES (43749 SQUARE FEET), MORE OR LESS.

5. That obtaining the foregoing Tracts and Easements are necessary for the development and construction of the Project, which is in the best interest of the citizens of the City of Madison in that it will contribute to the health, safety, and general welfare of the citizens of Madison.
6. That the Mayor of the City of Madison, or his designees are further authorized, empowered, and directed to acquire said Tracts and Easements by voluntary conveyance and offer Tucker Family Fund, LLC a total of **forty-nine thousand eight hundred forty-two dollars (\$49,842.00)** to compensate owner for the conveyances enumerated in Exhibit A, B and C.
7. That said Tracts have been appraised in accordance with Section 18-1A-21 of the Code of Alabama, as amended, to determine the amount of just compensation required for the acquisitions and it is the judgment and opinion of the City Council of the City of Madison that the offer to the owner represents such just compensation.
8. That the Mayor is authorized to execute any and all documents necessary to complete the acquisition of the Tract and all necessary easements described in Exhibit A and B.
9. Any prior acts taken by the City toward the acquisition of the property are hereby ratified and affirmed.

**READ, PASSED, AND ADOPTED** at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 22<sup>nd</sup> day of May 2022.

\_\_\_\_\_  
*Ranae Bartlett, Council President*  
City of Madison, Alabama

**ATTEST:**

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

**APPROVED** this \_\_\_ day of May 2022.

\_\_\_\_\_  
*Paul Finley, Mayor*  
City of Madison, Alabama

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

<b>STATE OF ALABAMA</b>	)	<b><u>WARRANTY DEED</u></b>
	)	<b><u>FOR RIGHT-OF-WAY</u></b>
<b>COUNTY OF LIMESTONE</b>	)	

**KNOW ALL MEN BY THESE PRESENTS** that, for and in consideration of the mutual promises and covenants contained herein and other good and valuable consideration to the undersigned **GRANTOR** in hand paid by the **GRANTEE**, the receipt of which is hereby acknowledged, **TUCKER FAMILY FUND, LLC** (herein referred to as **GRANTOR**), does hereby grant, bargain, sell, and convey unto the **CITY OF MADISON, ALABAMA, a municipal corporation** (herein referred to as **GRANTEE**) and does dedicate for public use as a public right-of-way, the following-described premises, located in Limestone County, Alabama, together with every individual and collective right, privilege, tenement, hereditament, and appurtenance pertaining thereto, to-wit:

A PARCEL OF LAND LOCATED IN THE NORTHWEST CORNER OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 3WEST OF THE HUNTSVILLE MERIDIAN IN MADISON COUNTY, ALABAMA; BEING MORE PARTICULARLY DESCRIBEDAS FOLLOWS:

COMMENCING AT A ROCK MARKING THE SAID NORTHWEST CORNER OF SECTION 13, THENCE SOUTH 87 DEGREES 30 MINUTES 21 SECONDS EAST, FOR A DISTANCE OF 1298.11 FEET TO THE POINT OF BEGINNING. THENCE FROM THE POINT OF BEGINNING, SOUTH 71 DEGREES 55 MINUTES 52 SECONDS EAST FOR A DISTANCE OF 39.32 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 11 DEGREES 34 MINUTES 47 SECONDS, HAVING A RADIUS OF 305.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 77 DEGREES 43 MINUTES 16 SECONDS EAST FOR A DISTANCE OF 61.54 FEET; THENCE, SOUTH 83 DEGREES 30 MINUTES 39 SECONDS EAST FOR A DISTANCE OF 574.66 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE LEFT THROUGH 16 DEGREES 07 MINUTES 10 SECONDS, HAVING A RADIUS OF 262.20 FEET, AND WHOSE LONG CHORD BEARS NORTH 88 DEGREES 25 MINUTES 46 SECONDS EAST FOR A DISTANCE OF 73.52 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH 33 DEGREES 38 MINUTES 49 SECONDS, HAVING A RADIUS OF 33.62 FEET, AND WHOSE LONGCHORD BEARS NORTH 63 DEGREES 32 MINUTES 47 SECONDS EAST FOR A DISTANCE OF 19.74 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH 79 DEGREES 15 MINUTES 22 SECONDS, HAVING A RADIUS OF 102.00 FEET, AND WHOSE LONG CHORD BEARS NORTH 86 DEGREES 21 MINUTES 28 SECONDS EAST FOR A DISTANCE OF 130.11 FEET TO THE BEGINNING OF ANON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 19 DEGREES 54 MINUTES 06 SECONDS, HAVING A RADIUS OF 99.23 FEET, AND WHOSE LONG CHORD BEARS SOUTH 63 DEGREES57 MINUTES 48 SECONDS EAST FOR A DISTANCE OF 34.29 FEET;

*Warranty Deed  
Tucker Family Fund, LLC  
Page 1 of 2*

THENCE, SOUTH 73 DEGREES 54 MINUTES 51SECONDS EAST FOR A DISTANCE OF 35.79 FEET TO A POINT; THENCE, SOUTH 89 DEGREES 45 MINUTES 42 SECONDS EAST FOR A DISTANCE OF 272.68 FEET TO A POINT; THENCE, SOUTH 00 DEGREES 12 MINUTES 12 SECONDS WEST FOR A DISTANCE OF 10.90 FEET TO A POINT, POINT LYING ON THE EXISTING NORTHERN RIGHT OF WAY LINE OF HARDIMAN ROAD (PUBLIC RIGHT OF WAY VARIES); THENCE, ALONG SAID NORTHERN MARGIN OF HARDIMAN ROAD, NORTH 89 DEGREES 32 MINUTES 57 SECONDS WEST FOR A DISTANCE OF 204.77 FEET TO A POINT; THENCE, NORTH 86 DEGREES 13 MINUTES 07 SECONDS WEST FOR A DISTANCE OF 106.41 FEET TO A POINT, POINT BEING THE TERMINUS OF THE NORTHERN RIGHT OF WAY MARGIN OF HARDIMAN ROAD AND THE BEGINNING OF THE NORTHERN RIGHT OF WAY OF MADISON BRANCH BOULEVARD (FORMERLY HALSEY DRIVE - PUBLIC RIGHT OF WAY VARIES); THENCE, ALONG SAID NORTHERN MARGIN OF MADISON BRANCH BOULEVARD,NORTH 88 DEGREES 38 MINUTES 41 SECONDS WEST FOR A DISTANCE OF 435.20 FEET TO A POINT; THENCE, NORTH 85 DEGREES 43 MINUTES 50 SECONDS WEST FOR A DISTANCE OF 250.22 FEET TO A POINT; THENCE, SOUTH 06 DEGREES 29 MINUTES 21 SECONDS WEST FOR A DISTANCE OF 20.78 FEET TO A POINT, POINT BEING THE TERMINUS OF MADISON BRANCH BOULEVARD RIGHT OF WAY; THENCE, NORTH 72 DEGREES 44 MINUTES 39 SECONDS WEST FOR A DISTANCE OF 239.96 FEET TO A POINT; THENCE NORTH 00 DEGREES 10 MINUTES 05 SECONDS WEST A DISTANCE OF 20.19 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.57 ACRES (24756 SQUARE FEET), MORE OR LESS.

**TO HAVE AND TO HOLD** unto the Grantee, its successors, and assigns forever.

And Grantor covenants with the Grantee, its successors, and assigns, that it is lawfully seized in fee simple of said premises; that it is free from all encumbrances, unless otherwise noted above; that it has a good right to dedicate and convey the same as aforesaid; and that it will warrant and defend the same to the Grantee, its successors, and assigns forever, against the lawful claims of all persons.

**IN WITNESS WHEREOF**, Grantor has caused these presents to be executed on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**By:** \_\_\_\_\_

**Its:** \_\_\_\_\_

**STATE OF ALABAMA** )  
 )  
**COUNTY OF** \_\_\_\_\_ )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Victor Tucker, whose name is signed to the foregoing conveyance as a representative of Tucker Family Fund, LLC and who is or has been made known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily as an act on the day the same bears date.

Given under my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public

*Warranty Deed  
Tucker Family Fund, LLC  
Page 2 of 2*

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

**STATE OF ALABAMA** )  
 )  
**COUNTY OF LIMESTONE** )

**WARRANTY DEED FOR  
CONVEYANCE OF EASEMENT**

**KNOW ALL MEN BY THESE PRESENTS**, that **Tucker Family Fund, LLC**, hereinafter referred to as **GRANTOR**, for and in consideration of Ten Dollars (\$10.00) cash to it in hand paid by the **City of Madison, Alabama**, a municipal corporation, hereinafter referred to as **GRANTEE**, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the said City of Madison and its successors and assigns a permanent and perpetual easement for storm drainage and utilities purposes over, though, and across the following-described property, situated in Madison, Limestone County, Alabama, to-wit:

A PARCEL OF LAND LOCATED IN THE NORTHWEST CORNER OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 3 WEST OF THE HUNTSVILLE MERIDIAN IN MADISON COUNTY, ALABAMA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A ROCK MARKING THE SAID NORTHWEST CORNER OF SECTION 13, THENCE SOUTH 87 DEGREES 30 MINUTES 21 SECONDS EAST, FOR A DISTANCE OF 1298.11 FEET TO THE POINT OF BEGINNING. THENCE FROM THE POINT OF BEGINNING, NORTH 00 DEGREES 10 MINUTES 05 SECONDS WEST FOR A DISTANCE OF 15.79 FEET TO A POINT; THENCE, SOUTH 71 DEGREES 55 MINUTES 52 SECONDS EAST FOR A DISTANCE OF 44.26 FEET TO THE BEGINNING OF A CURVE; SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 11 DEGREES 34 MINUTES 47 SECONDS, HAVING A RADIUS OF 290.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 77 DEGREES 43 MINUTES 16 SECONDS EAST FOR A DISTANCE OF 58.51 FEET; THENCE, SOUTH 83 DEGREES 30 MINUTES 39 SECONDS EAST FOR A DISTANCE OF 574.66 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE LEFT THROUGH 16 DEGREES 07 MINUTES 10 SECONDS, HAVING A RADIUS OF 247.20 FEET, AND WHOSE LONG CHORD BEARS NORTH 88 DEGREES 25 MINUTES 46 SECONDS EAST FOR A DISTANCE OF 69.32 FEET TO THE BEGINNING OF A NONTANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH 33 DEGREES 38 MINUTES 55 SECONDS, HAVING A RADIUS OF 18.62 FEET, AND WHOSE LONG CHORD BEARS NORTH 63 DEGREES 32 MINUTES 47 SECONDS EAST FOR A DISTANCE OF 10.78 FEET TO THE BEGINNING OF A NONTANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH 79 DEGREES 15 MINUTES 22 SECONDS, HAVING A RADIUS OF 117.00 FEET, AND WHOSE LONG CHORD BEARS NORTH 86 DEGREES 21 MINUTES 26 SECONDS EAST FOR A DISTANCE OF 149.25 FEET TO THE BEGINNING OF A NONTANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 19 DEGREES 54 MINUTES 06 SECONDS, HAVING A RADIUS OF 84.23 FEET, AND WHOSE LONG CHORD BEARS SOUTH 63 DEGREES 57 MINUTES 48 SECONDS EAST FOR A DISTANCE OF 29.11 FEET; THENCE, SOUTH 73 DEGREES 54 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 6.14

*Warranty Deed – conveyance of easement  
Tucker Family Fund, LLC  
Page 1 of 3*

FEET TO A POINT; THENCE, NORTH 17 DEGREES 28 MINUTES 34 SECONDS EAST FOR A DISTANCE OF 25.58 FEET TO A POINT; THENCE, SOUTH 72 DEGREES 31 MINUTES 26 SECONDS EAST FOR A DISTANCE OF 5.00 FEET TO A POINT; THENCE, SOUTH 17 DEGREES 28 MINUTES 34 SECONDS WEST FOR A DISTANCE OF 25.46 FEET TO A POINT; THENCE, SOUTH 73 DEGREES 54 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 22.57 FEET TO A POINT; THENCE, SOUTH 89 DEGREES 45 MINUTES 42 SECONDS EAST FOR A DISTANCE OF 270.59 FEET TO A POINT; THENCE, SOUTH 00 DEGREES 12 MINUTES 12 SECONDS WEST FOR A DISTANCE OF 15.00 FEET TO A POINT; THENCE, NORTH 89 DEGREES 45 MINUTES 42 SECONDS WEST FOR A DISTANCE OF 272.68 FEET TO A POINT; THENCE, NORTH 73 DEGREES 54 MINUTES 51 SECONDS WEST FOR A DISTANCE OF 35.79 FEET TO THE BEGINNING OF A CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH 19 DEGREES 54 MINUTES 06 SECONDS, HAVING A RADIUS OF 99.23 FEET, AND WHOSE LONG CHORD BEARS NORTH 63 DEGREES 57 MINUTES 48 SECONDS WEST FOR A DISTANCE OF 34.29 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH 79 DEGREES 15 MINUTES 22 SECONDS, HAVING A RADIUS OF 102.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 86 DEGREES 21 MINUTES 28 SECONDS WEST FOR A DISTANCE OF 130.11 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH 33 DEGREES 38 MINUTES 49 SECONDS, HAVING A RADIUS OF 33.62 FEET, AND WHOSE LONG CHORD BEARS SOUTH 63 DEGREES 32 MINUTES 47 SECONDS WEST FOR A DISTANCE OF 19.74 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 16 DEGREES 07 MINUTES 10 SECONDS, HAVING A RADIUS OF 262.20 FEET, AND WHOSE LONG CHORD BEARS SOUTH 88 DEGREES 25 MINUTES 46 SECONDS WEST FOR A DISTANCE OF 73.52 FEET; THENCE, NORTH 83 DEGREES 30 MINUTES 39 SECONDS WEST FOR A DISTANCE OF 574.66 FEET TO THE BEGINNING OF A CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 11 DEGREES 34 MINUTES 47 SECONDS, HAVING A RADIUS OF 305.00 FEET, AND WHOSE LONG CHORD BEARS NORTH 77 DEGREES 43 MINUTES 16 SECONDS WEST FOR A DISTANCE OF 61.54 FEET; THENCE NORTH 71 DEGREES 55 MINUTES 52 SECONDS WEST A DISTANCE OF 39.32 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.43 ACRES (18927 SQUARE FEET), MORE OR LESS.

**TO HAVE AND TO HOLD** unto Grantee and its successors and assigns forever.

Grantor covenants with Grantee and its successors and assigns that it is lawfully seized in fee simple of the servient estate; that the premises are free from all encumbrances, unless otherwise noted above; that it has a good right to sell and convey the same as aforesaid; and that it will warrant and defend the same to the Grantee and its successors and assigns forever, against the lawful claims of all persons.

**IN WITNESS WHEREOF**, \_\_\_\_\_ has caused this instrument to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**Tucker Family Fund, LLC as GRANTOR**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**STATE OF ALABAMA** )  
 )  
**COUNTY OF LIMESTONE** )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Victor Tucker, whose name as representative of **Tucker Family Fund, LLC**, an Alabama limited liability corporation, is signed to the foregoing conveyance and who is or has been made known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily as an act of said limited liability corporation on the day the same bears date.

Given under my hand and official seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public

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

STATE OF ALABAMA )  
 )  
COUNTY OF LIMESTONE ) CONVEYANCE OF TEMPORARY  
 CONSTRUCTION EASEMENT

*No title opinion requested and none provided.*

KNOW ALL MEN BY THESE PRESENTS, that TUCKER FAMILY FUND LLC, (“Grantor”), for and in consideration of Seven Thousand One Hundred Eighty Two Dollars (\$7,182.00) paid by the CITY OF MADISON, Alabama, a municipal corporation in Madison County, Alabama (“Grantee”), the receipt of which is hereby acknowledged, hereby grants, bargains, sells, and conveys unto the Grantee, its successors and assigns, a temporary construction easement over, under, upon, and across the following described property which is situated in the City of Madison, Limestone County, Alabama, to-wit:

STATE OF ALABAMA)  
LIMESTONE COUNTY)

A PARCEL OF LAND LOCATED IN THE NORTHWEST CORNER OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 3 WEST AND THE SOUTHWEST CORNER OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 3 WEST OF THE HUNTSVILLE MERIDIAN IN MADISON COUNTY, ALABAMA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A ROCK MARKING THE SAID NORTHWEST CORNER OF SECTION 13, THENCE SOUTH 88 DEGREES 12 MINUTES 09 SECONDS EAST, FOR A DISTANCE OF 1297.47 FEET TO THE POINT OF BEGINNING. THENCE FROM THE POINT OF BEGINNING, NORTH 00 DEGREES 10 MINUTES 05 SECONDS WEST FOR A DISTANCE OF 36.85 FEET TO A POINT ON A LINE; THENCE, SOUTH 71 DEGREES 55 MINUTES 52 SECONDS EAST FOR A DISTANCE OF 55.79 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 11 DEGREES 34 MINUTES 47 SECONDS, HAVING A RADIUS OF 255.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 77 DEGREES 43 MINUTES 15 SECONDS EAST FOR A DISTANCE OF 51.45 FEET; THENCE, SOUTH 83 DEGREES 30 MINUTES 39 SECONDS EAST FOR A DISTANCE OF 574.66 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE LEFT THROUGH 14 DEGREES 50 MINUTES 47 SECONDS, HAVING A RADIUS OF 212.20 FEET, AND WHOSE LONG CHORD BEARS NORTH 89 DEGREES 03 MINUTES 57 SECONDS EAST FOR A DISTANCE OF 54.83 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH 77 DEGREES 18 MINUTES 19 SECONDS, HAVING A RADIUS OF 152.00 FEET, AND WHOSE LONG CHORD BEARS NORTH 87 DEGREES 19 MINUTES 59 SECONDS EAST FOR A DISTANCE OF 189.88 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 19 DEGREES 54 MINUTES 06 SECONDS, HAVING A RADIUS OF 49.23 FEET, AND WHOSE LONG CHORD BEARS SOUTH 63 DEGREES 57 MINUTES 45 SECONDS EAST FOR A DISTANCE OF 17.02 FEET; THENCE, SOUTH 73 DEGREES 54 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 28.84 FEET TO A POINT ON A LINE; THENCE, SOUTH 89 DEGREES 45 MINUTES 42 SECONDS EAST FOR A DISTANCE OF 265.69 FEET TO A POINT ON A LINE; THENCE, SOUTH 00 DEGREES 12 MINUTES 12 SECONDS WEST FOR A DISTANCE OF 35.00 FEET TO A POINT ON A LINE; THENCE, NORTH 89 DEGREES 45 MINUTES 42 SECONDS WEST FOR A DISTANCE OF 270.59 FEET TO A POINT ON A LINE; THENCE, NORTH 73 DEGREES 54 MINUTES 51 SECONDS WEST FOR A DISTANCE OF 22.57 FEET TO A POINT ON A LINE; THENCE, NORTH 17 DEGREES 28 MINUTES 34 SECONDS EAST FOR A DISTANCE OF 25.46 FEET TO A POINT ON A



LINE; THENCE, NORTH 72 DEGREES 31 MINUTES 26 SECONDS WEST FOR A DISTANCE OF 5.00 FEET TO A POINT ON A LINE; THENCE, SOUTH 17 DEGREES 28 MINUTES 34 SECONDS WEST FOR A DISTANCE OF 25.58 FEET TO A POINT ON A LINE; THENCE, NORTH 73 DEGREES 54 MINUTES 51 SECONDS WEST FOR A DISTANCE OF 6.14 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE RIGHT THROUGH 19 DEGREES 54 MINUTES 06 SECONDS, HAVING A RADIUS OF 84.23 FEET, AND WHOSE LONG CHORD BEARS NORTH 63 DEGREES 57 MINUTES 48 SECONDS WEST FOR A DISTANCE OF 29.11 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH 79 DEGREES 15 MINUTES 22 SECONDS, HAVING A RADIUS OF 117.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 86 DEGREES 21 MINUTES 26 SECONDS WEST FOR A DISTANCE OF 149.25 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH 33 DEGREES 38 MINUTES 55 SECONDS, HAVING A RADIUS OF 18.62 FEET, AND WHOSE LONG CHORD BEARS SOUTH 63 DEGREES 32 MINUTES 47 SECONDS WEST FOR A DISTANCE OF 10.78 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 16 DEGREES 07 MINUTES 10 SECONDS, HAVING A RADIUS OF 247.20 FEET, AND WHOSE LONG CHORD BEARS SOUTH 88 DEGREES 25 MINUTES 46 SECONDS WEST FOR A DISTANCE OF 69.32 FEET; THENCE, NORTH 83 DEGREES 30 MINUTES 39 SECONDS WEST FOR A DISTANCE OF 574.66 FEET TO THE BEGINNING OF A CURVE; SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 11 DEGREES 34 MINUTES 47 SECONDS, HAVING A RADIUS OF 290.00 FEET, AND WHOSE LONG CHORD BEARS NORTH 77 DEGREES 43 MINUTES 16 SECONDS WEST FOR A DISTANCE OF 58.51 FEET; THENCE NORTH 71 DEGREES 55 MINUTES 52 SECONDS WEST A DISTANCE OF 44.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.00 ACRES (43749 SQUARE FEET), MORE OR LESS.

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

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

**IN WITNESS WHEREOF**, Victor Tucker, caused this instrument to be executed this \_\_\_\_\_ day of May 2023.

GRANTOR

\_\_\_\_\_  
**Victor Tucker, representative of the  
TUCKER FAMILY FUND, LLC**

STATE OF ALABAMA                                   §  
   §  
COUNTY OF \_\_\_\_\_                         §

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

Given under my hand and official seal this \_\_\_\_\_ day of May 2023.

\_\_\_\_\_  
Notary Public

**RESOLUTION NO. 2023-185-R**

**ACCEPTING INTO PUBLIC USE AND MAINTENANCE  
THE SUBDIVISION IMPROVEMENTS FOR  
THE HEIGHTS AT TOWN MADISON, PHASE 5.**

**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 May 22<sup>nd</sup>, 2023, the City of Madison accepts for public use and maintenance the street, drainage, and utilities within the rights of way and easements dedicated for The Heights at Town Madison, Phase 5 as recorded in the Madison County Probate Office in Plat Book 2022, Pages 424-426.

**READ, APPROVED, and ADOPTED** this 22<sup>nd</sup> day of May 2023.

\_\_\_\_\_  
**Ranae Bartlett, Council President**  
City of Madison, Alabama

**ATTEST:**

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

**APPROVED** this \_\_\_\_\_ day of May 2023.

\_\_\_\_\_  
**Paul Finley, Mayor**  
City of Madison, Alabama



**CITY OF MADISON, ALABAMA**  
**MAINTENANCE BOND FOR SUBDIVISION IMPROVEMENTS**

Subdivision: The Heights at Town Madison Phase 5

Principal: Breland Homes, LLC

Bond No: 17001018266 Amount: \$302,753.65 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.

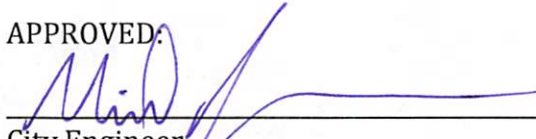
NOW, THEREFORE, the condition of this obligation is such that if the PRINCIPAL shall replace, repair, or correct any and all defects or deficiencies arising, occurring, or becoming apparent with respect to said subdivision improvements within two (2) years from and after the acceptance date, whether 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 8 day of May, 2023.

  
\_\_\_\_\_  
WITNESS

PRINCIPAL  
By: \_\_\_\_\_  
Its: Member\_\_\_\_\_

APPROVED:  
\_\_\_\_\_  
City Engineer

5/4/2023  
\_\_\_\_\_  
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: The Heights at Town Madison Phase 5

Plat Book: 2022 Page: 426 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.

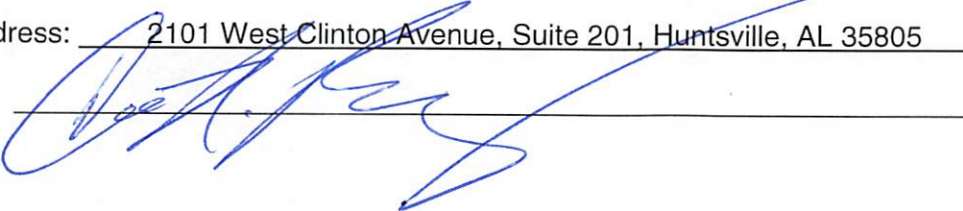
The applicant knows of no defects from any cause in these improvements. Applicant certifies that said improvements are free and clear of any encumbrance or loan.

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: 2/22/2023

Developer: Breland Homes, LLC

Address: 2101 West Clinton Avenue, Suite 201, Huntsville, AL 35805

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: 2/22/2023

Consulting Engineers: Mullins, LLC

Address: 2101 West Clinton Avenue, Suite 503, Huntsville, AL 35805

By: 





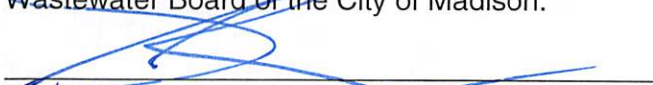
CITY OF MADISON &  
WATER AND WASTEWATER BOARD OF THE CITY OF MADISON  
SUBDIVISION ACCEPTANCE FORM

Subdivision: The Heights at Town Madison Phase 5

Plat Book: 2022 Page: 426 or Document # \_\_\_\_\_

Probate Records of Madison County, Alabama

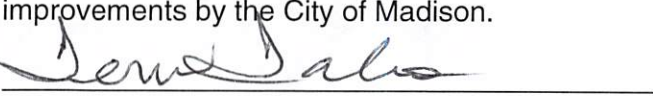
The water and sanitary sewer systems of the above-referenced subdivision have passed required tests and inspection and are hereby recommended for acceptance into the maintenance program of the Water and Wastewater Board of the City of Madison.

  
\_\_\_\_\_  
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

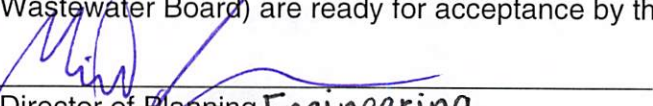
Upon affirmative vote of the Water and Wastewater Board on this the 3<sup>rd</sup> day of April, 2023, dedicated water and sanitary sewer systems in the above referenced subdivision are hereby accepted into the maintenance system of the Board, subject only to final acceptance of al other subdivision 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



IRREVOCABLE LETTER OF CREDIT  
(FOR SUBDIVISION MAINTENANCE BOND)

Beneficiary:  
City of Madison  
100 Hughes Rd  
Madison, AL 35758  
(hereinafter "CITY")

Applicant:  
Breland Homes, LLC  
2101 Clinton Ave, Ste. 201  
Huntsville, AL 35804  
(hereinafter "DEVELOPER")

Bank:  
SouthState Bank NA  
415 Meridian Street  
Huntsville, AL 35801  
(hereinafter "BANK")

Subdivision: The Heights at Town Madison Ph. 5

LOC No. 17001018266  
Letter of Credit No. 1702  
Amt: \$302,753.65  
Date: May 22, 2023  
Expiration: June 22, 2025  
(at least 25 months after date)

We hereby establish our Standby Irrevocable Letter of Credit ("LOC") in favor of CITY for the account of DEVELOPER for the purpose of securing a Maintenance Bond for Subdivision Improvements submitted by DEVELOPER as a condition for acceptance of the referenced subdivision into the City's Maintenance Program. This LOC shall be valid up to the amount above stated. It shall be available for draft by the CITY at sight drawn to BANK on or before the expiration date.

"This draft is made against the attached LOC submitted to the City of Madison by the referenced DEVELOPER as security for a maintenance bond posted upon application for acceptance of the subdivision improvements referenced therein. We hereby certify that the referenced subdivision improvements are defective or in need of repair, and that DEVELOPER 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 LOC and received from BANK will be used to cure such defects or make such repairs."

We hereby engage with *bona fide* holders that drafts drawn strictly in compliance with the terms of the LOC and any amendments thereto on or before the close of business on the referenced expiration date shall meet with due honor upon presentation to BANK.

Except as otherwise stated, this LOC is subject to the "Uniform Customs and Practices for Documentary Credit" (2007 revision), International Chamber of Commerce Publication 600 ("UCP"). As to matters not covered by the UCP, this credit is subject to and governed by the laws of the State of Alabama.

Additional terms or conditions: \_\_\_\_\_

Bank: SouthState Bank, NA  
By:   
Brian Shelton,  
Senior Vice President



**ORDINANCE NO. 2023-153**

**AMENDING THE CITY'S FIRE CODE, AS ADOPTED IN CHAPTER 8 OF  
THE CITY CODE OF ORDINANCES**

**WHEREAS**, §§ 36-19-3, 36-19-9 of the Code of Alabama (1975) provides that City fire departments and officials are assistants of the Fire Marshal and subject to the duties and obligations that the State Fire Marshal imposes; and

**WHEREAS**, the regulations of the Alabama State Fire Marshal specified in Chapter 482-2-101 of the Alabama Administrative Code adopt the 2021 edition of the International Fire Code;

**BE IT HEREBY ORDAINED** by the City Council of the City of Madison, Alabama that:

**Section 1.** Section 8-99(5) of the *Code of Ordinances, City of Madison, Alabama*, is hereby repealed in its entirety and replaced as follows:

“International Fire Code, 2021 Edition, including appendices B, C, D, E, I and M.”

**Section 2.** Section 8-100(4) of the *Code of Ordinances, City of Madison, Alabama*, is hereby repealed in its entirety and replaced as follows:

“(4) *International Fire Code, 2021 Edition*. The International Fire Code is hereby amended as follows:

- a. 112.4. Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$500.00 dollars or by imprisonment not exceeding six months, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.”

**Section 3.** Section 8-78(b) of the *Code of Ordinances, City of Madison, Alabama*, is hereby repealed in its entirety and replaced as follows:

“(b) Residential communities or developments approved by the planning commission for gate-restricted access must have access to all entrances by a method approved by the fire marshal and the entrances with electronic access must open automatically in the event of a power loss.”

**Section 4.** Section 8-78(f) of the *Code of Ordinances, City of Madison, Alabama*, is hereby repealed in its entirety and replaced as follows:

“(f) Industrial and commercial occupancies protected by an alarm system or automatic suppression system must participate in the lockbox program.”

**Section 5.** Section 18-29 of the *Code of Ordinances, City of Madison, Alabama*, is hereby repealed in its entirety and replaced as follows:

- (a) Adopted Code - “There is hereby adopted, for the purpose of the preservation and safety of human life from fire and similar emergencies within the city, the following code known as International Fire Code, 2021 Edition, including appendices B, C, D, E, I and M. The provisions of the adopted code shall be hereafter controlling within the city.”
- (b) Use of Other Codes – In order to better perform the statutory duties and responsibilities of the office of City Fire Marshal, portions of the current National Fire Code promulgated by the National Fire Protection Association may be consulted by the City Fire Marshal as needed to determine the proper applicability of the 2021 International Fire Code to any structure or building.
- (c) This rule does not purport to adopt the current National Fire Code. Instead, it is intended to state that said code may be consulted as necessary to determine whether the fire prevention and protection aspects of the code that is adopted by reference in the 2021 International Fire Code are properly applied under the circumstances.

**Section 6.** Section 18-30 of the *Code of Ordinances, City of Madison, Alabama*, is hereby added to the *Code of Ordinances, City of Madison, Alabama*, and states as follows:

“18-30 – Suspended Ceiling Systems

- (a) Flexible sprinkler hose fittings, ceiling-mounted air terminals or other services weighing less than 20 lb [9 kg] shall be positively attached to the ceiling suspension main runners or to cross runners that have the same carrying capacity as the main runners.
- (b) Flexible sprinkler hose fittings, air terminals or other services weighing more than 20 lb [9 kg] but less than 56 lb [25 kg] shall have, in addition to the requirements in 18-30(a), two No. 12-gauge [2.70 mm] hanger wires connected from the terminal or service to the ceiling system hangers or to the structure above that act as safety wires. It is not necessary for these wires to be taught.
- (c) Flexible sprinkler hose fittings, air terminals or other services weighing more than 56 lb [25 kg] shall be supported directly from the structure above by approved hangers.”

**Section 7.** Section 18-31 of the *Code of Ordinances, City of Madison, Alabama*, is hereby added to the *Code of Ordinances, City of Madison, Alabama*, and states as follows:

“18-31 - Fire Extinguishers

All fire extinguishers required under the *Code of Ordinances, City of Madison, Alabama*, and adopted fire codes set forth in the *Code of Ordinances, City of Madison, Alabama* shall be rated as a 4-A:40B:C ten-pounds fire extinguishers minimum.”

**Section 8.** Section 18-32 of the *Code of Ordinances, City of Madison, Alabama*, is hereby added to the *Code of Ordinances, City of Madison, Alabama*, and states as follows:

“18-32 – Fireblocking System Requirements

- (a) All penetrations to be filled with fire caulk, as required by applicable codes, are to be approved by fire marshal and building officials.
- (b) Fire collars shall be installed on all non-ductile penetrations 2 inches or larger in fire-rated walls and ceilings.

**Section 9.** Section 18-33 of the *Code of Ordinances, City of Madison, Alabama*, is hereby added to the *Code of Ordinances, City of Madison, Alabama*, and states as follows:

“18-33 – Fire Protection System Requirements

- (a) Buildings which are required to have a fire department connection (FDC) shall have a fire hydrant located within 50 feet of the FDC. The FDC shall be located remote from the building either freestanding or at the fire vault as determined by the Fire Marshal unless deemed impractical.
- (b) Private fire hydrants shall be painted silver in color with the bonnet painted in accordance with 2019 NFPA 291 to match the rated hydrant capacity.
- (c) Building equipped throughout with an automatic sprinkler system in accordance with 2021 IFC 903.3.1.1 and 903.3.1.2 shall be provided with occupant notification appliances that will activate throughout the interior notification zones on sprinkler water flow. The automatic sprinkler system shall also be equipped with an approved audible and visual device located on the exterior of the building in an approved location that will activate on sprinkler water flow.”
- (d) Automatic sprinkler system risers, fire pumps and controllers shall be provided with ready access including having required signage along with an exterior access door with an outward swing if building design allows.”

**Section 10.** Section 18-80 of the *Code of Ordinances, City of Madison, Alabama*, is hereby repealed in its entirety and replaced as follows:

“18-80 – Scope of article.

This article in no way replaces or negates the requirements pertaining to explosives as contained in the International Fire Code, 2021 Edition, as the same may be amended, including appendices, or any rule or regulations of any governmental agency. The Standard Fire Prevention Code is administered by the chief of the city fire department within the city limits of Madison.”

**Section 11.** Section 18-124(4) of the *Code of Ordinances, City of Madison, Alabama*, is hereby repealed in its entirety and replaced as follows:

“(4) No open burning permit, safety permit or notification is required for fires used for cooking of food, including barbecues and outdoor fireplaces or fire pits. Only clean fuel not containing garbage, rubber, leaves, grass clippings, plastics, or other refuse is permitted. In multi-family occupancies, grills, barbecues, heating appliances, and portable outdoor fire pits shall not be stored, used, or kindled on any balcony or under any overhanging portion within ten feet of any structure.”

**Section 12.** That each section herein is hereby declared to be an independent provision and that the holding by a court of competent jurisdiction of any provision hereof to be void and invalid for any reason shall not affect any other provision hereof.

**Section 13.** That this ordinance shall become effective immediately upon its passage and upon its proper publication as required by law.

**READ, PASSED AND ADOPTED** this 22nd day of May 2023.

\_\_\_\_\_  
*Ranae Bartlett, Council President*  
City of Madison, Alabama

**ATTEST:**

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

**APPROVED** this \_\_\_ day of May 2023.

\_\_\_\_\_  
*Paul Finley, Mayor*  
City of Madison, Alabama

**RESOLUTION NO. 2023-178-R****A RESOLUTION AUTHORIZING AGREEMENT WITH COMCAST FOR  
INSTALLATION OF FIBER CABLE TO MUNICIPAL LOCATIONS**

**WHEREAS**, the City of Madison Information Technology Department has determined that the City needs additional fiber cables installed for the Madison City Library, Fire Station 2, Fire Station 3, Dublin Park, the Senior Center and City Hall; and

**WHEREAS**, the Information Technology Department has confirmed that the referenced installation of fiber cable will have significant impact on the City's security plans and/or the safety of the City of Madison's computer systems;

**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 Comcast Enterprise, for installation of fiber cable said pricing proposal being substantially similar in purpose, intent, and composition to that certain document attached (**Attachment A: COMCAST ENTERPRISE SERVICES SALES ORDER FORM**), 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 to Comcast Enterprises in the amount(s) and manner authorized by the quotation 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 22<sup>nd</sup> day of May 2023.

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

**ATTEST:**

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

**APPROVED** this \_\_\_\_ day of May 2023.

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*Paul Finley, Mayor*  
**City of Madison, Alabama**

MSA ID#: AL-12571584-DTark

SO ID#: AL-12571584-DTark-23467041

Account Name: City of Madison

CUSTOMER INFORMATION (for notices)

Primary Contact: Chris White  
 Title: IT Director  
 Address 1: 100 Hughes  
 Address 2: \_\_\_\_\_  
 City: Madison  
 State: AL  
 Zip: 35758  
 Phone: (256) 464-8432  
 Cell: \_\_\_\_\_  
 Fax: \_\_\_\_\_  
 Email: chris.white@madisonal.gov

Billing Account Name: City of Madison  
 Billing Name: \_\_\_\_\_  
 (3rd Party Accounts) \_\_\_\_\_  
 Billing Contact: Chris White  
 Title: IT Director  
 Phone: (256) 464-8432  
 Cell: \_\_\_\_\_  
 Fax: \_\_\_\_\_  
 Email: chris.white@madisonal.gov

INVOICE ADDRESS  
 Address 1: 100 Hughes  
 Address 2: \_\_\_\_\_  
 City: Madison  
 State: AL  
 Zip Code: 35758  
 Tax Exempt: Yes  
\* If Yes, please provide and attach all applicable tax exemption certificates

SUMMARY OF CHARGES (Details on following pages)

Service Term (Months):

SUMMARY OF SERVICE CHARGES\*

Current Monthly Recurring Charges: \$0.00  
 Current Trunk Services Monthly Recurring Charges: \$0.00  
**Total Current Monthly Recurring Charges (all Services): \$0.00**

Change Monthly Recurring Charges: \$2,429.00  
 Change Trunk Services Monthly Recurring Charges: \$0.00  
**Change Monthly Recurring Charges (all Services): \$2,429.00**

Total Monthly Recurring Charges: \$2,429.00  
 Total Trunk Services Monthly Recurring Charges: \$0.00  
**Total Monthly Recurring Charges (all Services): \$2,429.00**

SUMMARY OF STANDARD INSTALLATION FEES\*

Total Standard Installation Fees: \$0.00  
 Total Trunk Services Standard Installation Fees: \$0.00  
**Total Standard Installation Fees (all Services): \$0.00**

SUMMARY OF CUSTOM INSTALLATION FEES\*

**Total Custom Installation Fee: \$0.00**

SUMMARY OF MONTHLY EQUIPMENT FEES\*

Current Services Equipment Fee Monthly Recurring Charges: \$0.00  
 Current Trunk Services Equipment Fee Monthly Recurring Charges: \$0.00  
**Current Equipment Fee Monthly Recurring Charges (All Services): \$0.00**

Change Services Equipment Fee Monthly Recurring Charges: \$0.00  
 Change Trunk Services Equipment Fee Monthly Recurring Charges: \$0.00  
**Change Equipment Fee Monthly Recurring Charges (All Services): \$0.00**

Total Service Equipment Fee Monthly Recurring Charges: \$0.00  
 Total Trunk Service Equipment Fee Monthly Recurring Charges: \$0.00  
**Total Equipment Fee Monthly Recurring Charges (All Services): \$0.00**

\*Note: Charges identified in the Sales Order are exclusive of maintenance and repair charges, and applicable federal, state, and local taxes, fees, surcharges and recoupments (however designated). Please refer to your Comcast Enterprise Services Master Services Agreement (MSA) for specific detail regarding such charges. Customer shall pay Comcast one hundred percent (100%) of the non-amortized Custom Installation Fees prior to the installation of Service. The existence of Hazardous Materials at the Service Location or a change in installation due to an Engineering Review may result in changes to the Custom and/or Standard Installation Fees payable by Customer.

GENERAL COMMENTS

Cisco medium equipment rental for a discounted rate of \$30.00, increasing to regular rate at the end of the original term. Minimum 2 year term required.

AGREEMENT

This Comcast Enterprise Services Sales Order Form ("Sales Order") shall be effective upon acceptance by Comcast. This Sales Order is made a part of the Comcast Enterprise Services Master Services Agreement, entered between Comcast and the undersigned and is subject to the Product Specific Attachment for the Service(s) ordered herein, located at <http://business.comcast.com/terms-conditions-ent>, (the "Agreement"). Unless otherwise indicated herein, capitalized words shall have the same meaning as in the Agreement.

By purchasing Comcast voice services, you are giving Comcast Business permission to request a copy of the Customer Service Record(s) from your existing carrier(s). Customer Service Records include the telephone numbers listed on the account(s) and may also include information related to services provided by such carrier(s).

COMPANY ACKNOWLEDGES RECEIPT AND UNDERSTANDING OF THIS 911 NOTICE:

The Comcast Voice Services may have the 911 limitations specified below:

- In order for 911 calls to be properly directed to emergency services using the Voice Services, Comcast must have the correct service address and, where applicable, location details ("Registered Service Location"). Registered Service Location may include, subject to any character limitations, location details such as a floor and/or office number, in addition to street address, for each telephone number and extension used by the Customer. If the Voice Services or any Voice Services device is moved to a different location without Customer providing updated Registered Service Location information, 911 calls may be directed to the wrong emergency authority, may transmit the wrong address, emergency responders may be unable to locate the emergency on the premises and/or the Voice Services (including 911) may fail altogether. Customer's use of a telephone number not associated with its geographic location, or a failure to allot sufficient time for a Registered Service Location change to be processed may also increase these risks.
- Customer is solely responsible for informing Comcast of initial Registered Service Locations for each telephone number and extension and of all changes to Registered Service Locations for the Voice Services, including subsequent moves, additions or deletions of stations. Customer is also responsible for programming its PBX system to reflect these Registered Service Locations. Customer will inform Comcast of changes to any Registered Service Location for each telephone number and extension by calling Comcast at 1-855-368-0600 or by opening a trouble ticket in the Comcast Care Center Portal. The contact number or method for making such updates are subject to change from time to time.
- The Voice Services use electrical power in the Customer's premises, as well as the Customer's underlying broadband service. If there is an electrical power outage or underlying broadband service outage, 911 calling may be interrupted. Similarly, calls using the Voice Services, including calls to 911, may not be completed if there is a problem with network facilities, including network congestion, network/equipment failure, or another technical problem.
- If the Registered Service Location provided in conjunction with the use of Comcast Equipment is deemed to be in an area that is not supported for 911 calls, Customer will not have direct access to either basic 911 or E911. In this case, Customer 911 calls will be sent to an emergency call center. A trained agent at the emergency call center will ask for the caller's name, telephone number and location, and then will contact the local emergency authority for that area in order to send help.

BY SIGNING BELOW, I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE 911 LIMITATIONS OF THE VOICE SERVICES

By signing below, Customer acknowledges, agrees to and accepts the terms and conditions of this Sales Order.

CUSTOMER USE ONLY (by authorized representative)		COMCAST USE ONLY (by authorized representative)	
Signature:		Signature:	Tom Colbey
Name:	<b>Paul Finley</b>	Name:	Sales Rep E-Mail: Tom_Colbey@comcast.com
Title:	<b>Mayor</b>	Title:	Region: Big South
Date:	<b>May , 2023</b>	Date:	Division: Central



## COMCAST ENTERPRISE SERVICES SALES ORDER FORM

### SERVICES AND PRICING

Account Name:

Date:

MSA ID#:

SO ID#:

**Short Description of Service:**

**Service Term:**

PAGE 2 of 7

**Solution Charges**

Line	Request	Action	Service(s)	Description	Service Location A*	Service Location Z'	Tax Jurisdiction	Qty	Monthly	One-Time
001	New	Add	Ethernet Network Interface - 10 / 100	Port	142 PLAZA BLVD-City of Madison	-	Interstate	1	\$30.11	\$0.00
002	New	Add	ENS - Basic Network Bandwidth	100 Mbps	142 PLAZA BLVD-City of Madison	-	Interstate	1	\$240.89	\$0.00
003	-	-	-	-	-	-	-	-	\$0.00	\$0.00
004	New	Add	Ethernet Network Interface - 10 / 100	Port	12266 COUNTY LINE RD-City of M	-	Interstate	1	\$30.11	\$0.00
005	New	Add	ENS - Basic Network Bandwidth	100 Mbps	12266 COUNTY LINE RD-City of M	-	Interstate	1	\$240.89	\$0.00
006	-	-	-	-	-	-	-	-	\$0.00	\$0.00
007	New	Add	Ethernet Network Interface - 10 / 100	Port	8324 MADISON PIKE-City of Madis	-	Interstate	1	\$30.11	\$0.00
008	New	Add	ENS - Basic Network Bandwidth	100 Mbps	8324 MADISON PIKE-City of Madis	-	Interstate	1	\$240.89	\$0.00
009	-	-	-	-	-	-	-	-	\$0.00	\$0.00
010	New	Add	Ethernet Network Interface - 10 / 100	Port	1282 HUGHES RD-City of Madison	-	Interstate	1	\$30.11	\$0.00
011	New	Add	ENS - Basic Network Bandwidth	100 Mbps	1282 HUGHES RD-City of Madison	-	Interstate	1	\$240.89	\$0.00
012	-	-	-	-	-	-	-	-	\$0.00	\$0.00
013	New	Add	Ethernet Network Interface - 10 / 100	Port	1570 OLD MONROVIA RD NW-City	-	Interstate	1	\$30.11	\$0.00
014	New	Add	ENS - Basic Network Bandwidth	100 Mbps	1570 OLD MONROVIA RD NW-City	-	Interstate	1	\$240.89	\$0.00
015	-	-	-	-	-	-	-	-	\$0.00	\$0.00
016	New	Add	Ethernet Network Interface - 10 / 100	Port	574 PALMER RD-City of Madison /	-	Interstate	1	\$30.11	\$0.00
017	New	Add	ENS - Basic Network Bandwidth	100 Mbps	574 PALMER RD-City of Madison /	-	Interstate	1	\$240.89	\$0.00
018	-	-	-	-	-	-	-	-	\$0.00	\$0.00
019	New	Add	Ethernet Network Interface - 10 / 100	Port	1115 HUGHES RD-City of Madison	-	Interstate	1	\$30.11	\$0.00
020	New	Add	ENS - Basic Network Bandwidth	100 Mbps	1115 HUGHES RD-City of Madison	-	Interstate	1	\$240.89	\$0.00
021	-	-	-	-	-	-	-	-	\$0.00	\$0.00
022	New	Add	Ethernet Network Interface - Gig E	Port	100 HUGHES RD-City of Madison /	-	Interstate	1	\$130.00	\$0.00
023	New	Add	ENS - Basic Network Bandwidth	1000 Mbps	100 HUGHES RD-City of Madison /	-	Interstate	1	\$402.00	\$0.00
024	-	-	-	-	-	-	-	-	\$0.00	\$0.00
025	-	-	-	-	-	-	-	-	\$0.00	\$0.00
026	-	-	-	-	-	-	-	-	\$0.00	\$0.00
027	-	-	-	-	-	-	-	-	\$0.00	\$0.00
028	-	-	-	-	-	-	-	-	\$0.00	\$0.00
029	-	-	-	-	-	-	-	-	\$0.00	\$0.00
030	-	-	-	-	-	-	-	-	\$0.00	\$0.00
031	-	-	-	-	-	-	-	-	\$0.00	\$0.00
032	-	-	-	-	-	-	-	-	\$0.00	\$0.00
033	-	-	-	-	-	-	-	-	\$0.00	\$0.00
034	-	-	-	-	-	-	-	-	\$0.00	\$0.00
035	-	-	-	-	-	-	-	-	\$0.00	\$0.00
036	-	-	-	-	-	-	-	-	\$0.00	\$0.00
037	-	-	-	-	-	-	-	-	\$0.00	\$0.00
038	-	-	-	-	-	-	-	-	\$0.00	\$0.00
039	-	-	-	-	-	-	-	-	\$0.00	\$0.00
040	-	-	-	-	-	-	-	-	\$0.00	\$0.00
041	-	-	-	-	-	-	-	-	\$0.00	\$0.00
042	-	-	-	-	-	-	-	-	\$0.00	\$0.00
043	-	-	-	-	-	-	-	-	\$0.00	\$0.00
044	-	-	-	-	-	-	-	-	\$0.00	\$0.00
045	-	-	-	-	-	-	-	-	\$0.00	\$0.00
046	-	-	-	-	-	-	-	-	\$0.00	\$0.00
047	-	-	-	-	-	-	-	-	\$0.00	\$0.00
048	-	-	-	-	-	-	-	-	\$0.00	\$0.00
049	-	-	-	-	-	-	-	-	\$0.00	\$0.00
050	-	-	-	-	-	-	-	-	\$0.00	\$0.00

\* Services Location Details attached

Charges are Exclusive of Equipment Fees

**PAGE 2 SUBTOTAL:** \$2,429.00 \$0.00





## COMCAST ENTERPRISE SERVICES SALES ORDER FORM

### SERVICES AND PRICING

Account Name:

Date:

MSA ID#:

SO ID#:

PAGE 3 of 7

Solution Charges

Line	Request	Action	Service(s)	Description	Service Location A*	Service Location Z*	Tax Jurisdiction	Qty	Solution Charges	
									Monthly	One-Time
051	-	-			-	-			\$0.00	\$0.00
052	-	-			-	-			\$0.00	\$0.00
053	-	-			-	-			\$0.00	\$0.00
054	-	-			-	-			\$0.00	\$0.00
055	-	-			-	-			\$0.00	\$0.00
056	-	-			-	-			\$0.00	\$0.00
057	-	-			-	-			\$0.00	\$0.00
058	-	-			-	-			\$0.00	\$0.00
059	-	-			-	-			\$0.00	\$0.00
060	-	-			-	-			\$0.00	\$0.00
061	-	-			-	-			\$0.00	\$0.00
062	-	-			-	-			\$0.00	\$0.00
063	-	-			-	-			\$0.00	\$0.00
064	-	-			-	-			\$0.00	\$0.00
065	-	-			-	-			\$0.00	\$0.00
066	-	-			-	-			\$0.00	\$0.00
067	-	-			-	-			\$0.00	\$0.00
068	-	-			-	-			\$0.00	\$0.00
069	-	-			-	-			\$0.00	\$0.00
070	-	-			-	-			\$0.00	\$0.00
071	-	-			-	-			\$0.00	\$0.00
072	-	-			-	-			\$0.00	\$0.00
073	-	-			-	-			\$0.00	\$0.00
074	-	-			-	-			\$0.00	\$0.00
075	-	-			-	-			\$0.00	\$0.00
076	-	-			-	-			\$0.00	\$0.00
077	-	-			-	-			\$0.00	\$0.00
078	-	-			-	-			\$0.00	\$0.00
079	-	-			-	-			\$0.00	\$0.00
080	-	-			-	-			\$0.00	\$0.00
081	-	-			-	-			\$0.00	\$0.00
082	-	-			-	-			\$0.00	\$0.00
083	-	-			-	-			\$0.00	\$0.00
084	-	-			-	-			\$0.00	\$0.00
085	-	-			-	-			\$0.00	\$0.00
086	-	-			-	-			\$0.00	\$0.00
087	-	-			-	-			\$0.00	\$0.00
088	-	-			-	-			\$0.00	\$0.00
089	-	-			-	-			\$0.00	\$0.00
090	-	-			-	-			\$0.00	\$0.00
091	-	-			-	-			\$0.00	\$0.00
092	-	-			-	-			\$0.00	\$0.00
093	-	-			-	-			\$0.00	\$0.00
094	-	-			-	-			\$0.00	\$0.00
095	-	-			-	-			\$0.00	\$0.00
096	-	-			-	-			\$0.00	\$0.00
097	-	-			-	-			\$0.00	\$0.00
098	-	-			-	-			\$0.00	\$0.00
099	-	-			-	-			\$0.00	\$0.00
100	-	-			-	-			\$0.00	\$0.00
101	-	-			-	-			\$0.00	\$0.00
102	-	-			-	-			\$0.00	\$0.00
<b>PAGE 3 SUBTOTAL:</b>									\$0.00	\$0.00

\* Services Location Details attached

Charges are Exclusive of Equipment Fees



## COMCAST ENTERPRISE SERVICES SALES ORDER FORM

**SERVICES AND PRICING**

Account Name:  MSA ID#:

Date:  SO ID#:

PAGE 4 of 7

**Solution Charges**

Line	Request	Action	Service(s)	Description	Service Location A*	Service Location Z*	Tax Jurisdiction	Qty	Monthly	One-Time
103	-	-			-	-			\$0.00	\$0.00
104	-	-			-	-			\$0.00	\$0.00
105	-	-			-	-			\$0.00	\$0.00
106	-	-			-	-			\$0.00	\$0.00
107	-	-			-	-			\$0.00	\$0.00
108	-	-			-	-			\$0.00	\$0.00
109	-	-			-	-			\$0.00	\$0.00
110	-	-			-	-			\$0.00	\$0.00
111	-	-			-	-			\$0.00	\$0.00
112	-	-			-	-			\$0.00	\$0.00
113	-	-			-	-			\$0.00	\$0.00
114	-	-			-	-			\$0.00	\$0.00
115	-	-			-	-			\$0.00	\$0.00
116	-	-			-	-			\$0.00	\$0.00
117	-	-			-	-			\$0.00	\$0.00
118	-	-			-	-			\$0.00	\$0.00
119	-	-			-	-			\$0.00	\$0.00
120	-	-			-	-			\$0.00	\$0.00
121	-	-			-	-			\$0.00	\$0.00
122	-	-			-	-			\$0.00	\$0.00
123	-	-			-	-			\$0.00	\$0.00
124	-	-			-	-			\$0.00	\$0.00
125	-	-			-	-			\$0.00	\$0.00
126	-	-			-	-			\$0.00	\$0.00
127	-	-			-	-			\$0.00	\$0.00
128	-	-			-	-			\$0.00	\$0.00
129	-	-			-	-			\$0.00	\$0.00
130	-	-			-	-			\$0.00	\$0.00
131	-	-			-	-			\$0.00	\$0.00
132	-	-			-	-			\$0.00	\$0.00
133	-	-			-	-			\$0.00	\$0.00
134	-	-			-	-			\$0.00	\$0.00
135	-	-			-	-			\$0.00	\$0.00
136	-	-			-	-			\$0.00	\$0.00
137	-	-			-	-			\$0.00	\$0.00
138	-	-			-	-			\$0.00	\$0.00
139	-	-			-	-			\$0.00	\$0.00
140	-	-			-	-			\$0.00	\$0.00
141	-	-			-	-			\$0.00	\$0.00
142	-	-			-	-			\$0.00	\$0.00
143	-	-			-	-			\$0.00	\$0.00
144	-	-			-	-			\$0.00	\$0.00
145	-	-			-	-			\$0.00	\$0.00
146	-	-			-	-			\$0.00	\$0.00
147	-	-			-	-			\$0.00	\$0.00
148	-	-			-	-			\$0.00	\$0.00
149	-	-			-	-			\$0.00	\$0.00
150	-	-			-	-			\$0.00	\$0.00
151	-	-			-	-			\$0.00	\$0.00
152	-	-			-	-			\$0.00	\$0.00
153	-	-			-	-			\$0.00	\$0.00

\* Services Location Details attached

Charges are Exclusive of Equipment Fees

**PAGE 4 SUBTOTAL:**

\$0.00      \$0.00



## COMCAST ENTERPRISE SERVICES SALES ORDER FORM

### SERVICES AND PRICING

Account Name:

Date:

MSA ID#:

SO ID#:

PAGE 4 of 7

**Solution Charges**

Line	Request	Action	Service(s)	Description	Service Location A*	Service Location Z*	Tax Jurisdiction	Qty	Monthly	One-Time
154	-	-			-	-			\$0.00	\$0.00
155	-	-			-	-			\$0.00	\$0.00
156	-	-			-	-			\$0.00	\$0.00
157	-	-			-	-			\$0.00	\$0.00
158	-	-			-	-			\$0.00	\$0.00
159	-	-			-	-			\$0.00	\$0.00
160	-	-			-	-			\$0.00	\$0.00
161	-	-			-	-			\$0.00	\$0.00
162	-	-			-	-			\$0.00	\$0.00
163	-	-			-	-			\$0.00	\$0.00
164	-	-			-	-			\$0.00	\$0.00
165	-	-			-	-			\$0.00	\$0.00
166	-	-			-	-			\$0.00	\$0.00
167	-	-			-	-			\$0.00	\$0.00
168	-	-			-	-			\$0.00	\$0.00
169	-	-			-	-			\$0.00	\$0.00
170	-	-			-	-			\$0.00	\$0.00
171	-	-			-	-			\$0.00	\$0.00
172	-	-			-	-			\$0.00	\$0.00
173	-	-			-	-			\$0.00	\$0.00
174	-	-			-	-			\$0.00	\$0.00
175	-	-			-	-			\$0.00	\$0.00
176	-	-			-	-			\$0.00	\$0.00
177	-	-			-	-			\$0.00	\$0.00
178	-	-			-	-			\$0.00	\$0.00
179	-	-			-	-			\$0.00	\$0.00
180	-	-			-	-			\$0.00	\$0.00
181	-	-			-	-			\$0.00	\$0.00
182	-	-			-	-			\$0.00	\$0.00
183	-	-			-	-			\$0.00	\$0.00
184	-	-			-	-			\$0.00	\$0.00
185	-	-			-	-			\$0.00	\$0.00
186	-	-			-	-			\$0.00	\$0.00
187	-	-			-	-			\$0.00	\$0.00
188	-	-			-	-			\$0.00	\$0.00
189	-	-			-	-			\$0.00	\$0.00
190	-	-			-	-			\$0.00	\$0.00
191	-	-			-	-			\$0.00	\$0.00
192	-	-			-	-			\$0.00	\$0.00
193	-	-			-	-			\$0.00	\$0.00
194	-	-			-	-			\$0.00	\$0.00
195	-	-			-	-			\$0.00	\$0.00
196	-	-			-	-			\$0.00	\$0.00
197	-	-			-	-			\$0.00	\$0.00
198	-	-			-	-			\$0.00	\$0.00
199	-	-			-	-			\$0.00	\$0.00
200	-	-			-	-			\$0.00	\$0.00
201	-	-			-	-			\$0.00	\$0.00
202	-	-			-	-			\$0.00	\$0.00
203	-	-			-	-			\$0.00	\$0.00
204	-	-			-	-			\$0.00	\$0.00

\* Services Location Details attached

Charges are Exclusive of Equipment Fees

**PAGE 4 SUBTOTAL:**

\$0.00

\$0.00



**COMCAST ENTERPRISE SERVICES SALES ORDER FORM**  
**SERVICE LOCATION DETAIL INFORMATION**

Date:  MSA ID#:  SO ID#:  Account Name:

PAGE 5 of 7

Line	Location Name/Site ID	Address 1	Address 2	City	State	Zip Code	Incremental Equipment Fee	Technical/Local Contact Name	Technical/Local Contact Phone #	Technical/Local Contact Email Address	Technical Contact On Site (Yes/No)
1	142 PLAZA BLVD-City of Ma	142 PLAZA BLVD	Madison Library	Madison	AL	35758	\$0.00				
2	1115 HUGHES RD-City of M	1115 HUGHES RD	Fire Station 2	Madison	AL	35758	\$0.00				
3	12266 COUNTY LINE RD-Ci	12266 COUNTY LINE RD	Fire Station 3	Madison	AL	35756	\$0.00				
4	8324 MADISON PIKE-City of	8324 MADISON PIKE	Dublin Park	Madison	AL	35758	\$0.00				
5	1282 HUGHES RD-City of M	1282 HUGHES RD	Senior Center	Madison	AL	35758	\$0.00				
6	100 HUGHES RD-City of Ma	100 HUGHES RD	City Hall	Madison	AL	35758	\$0.00				
7	-										
8	1570 OLD MONROVIA-City	1570 OLD MONROVIA RD		Madison	AL	35806	\$0.00				
9	574 PALMER RD-City of Mad	574 PALMER RD		Madison	AL	35758	\$0.00				
10	-										
11	-										
12	-										
13	-										
14	-										
15	-										
16	-										
17	-										
18	-										
19	-										
20	-										
21	-										
22	-										
23	-										
24	-										
25	-										
26	-										
27	-										
28	-										
29	-										
30	-										
31	-										
32	-										
33	-										
34	-										
35	-										
36	-										
37	-										



COMCAST ENTERPRISE SERVICES SALES ORDER FORM  
SERVICE LOCATION DETAIL INFORMATION

Date: 1/31/2023

MSA ID#: AL-12571584-DTark

SO ID#: AL-12571584-DTark-23467041

Account Name: City of Madison

PAGE 6 of 7

Line	Location Name/Site ID	Address 1	Address 2	City	State	Zip Code	Incremental Equipment Fee	Technical/Local Contact Name	Technical/Local Contact Phone #	Technical/Local Contact Email Address	Technical Contact On Site (Yes/No)
38	-										
39	-										
40	-										
41	-										
42	-										
43	-										
44	-										
45	-										
46	-										
47	-										
48	-										
49	-										
50	-										
51	-										
52	-										
53	-										
54	-										
55	-										
56	-										
57	-										
58	-										
59	-										
60	-										
61	-										
62	-										
63	-										
64	-										
65	-										
66	-										
67	-										
68	-										
69	-										
70	-										
71	-										
72	-										
73	-										
74	-										
75	-										
76	-										
77	-										
78	-										
79	-										
80	-										

**RESOLUTION NO. 2023-186-R**

**A RESOLUTION AUTHORIZING SOFTWARE LICENSE SUBSCRIPTION WITH  
NINJAONE.**

**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 an agreement for an annual software license subscription services with NinjaOne for IT support software, said document to be substantially similar in purpose, intent, and composition to that certain document attached hereto and identified as **Attachment A: Ninja End User License Agreement**. 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 to NinjaOne, in the amount(s) and manner authorized by the proposal 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 22<sup>nd</sup> day of May 2023.

\_\_\_\_\_  
*Ranae Bartlett, Council President*  
City of Madison, Alabama

ATTEST:

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

APPROVED this 22nd day of May 2023.

\_\_\_\_\_  
*Paul Finley, Mayor*  
City of Madison, Alabama

By signing this Order Form, you agree to enter into a subscription for the number of licenses to NinjaOne software set forth below (the "Subscription"), subject to the following terms and conditions:

<b>Company Name:</b>	City of Madison, AL	<b>Billing Email:</b>	
<b>Licensee Email:</b>	chris.white@madisonal.gov	<b>Billing Address:</b>	211 S Carroll St Madison, 53703
<b>Payment Terms:</b>	Due on receipt		
<b>Bill Date:</b>	1st of the month		
<b>Bill Currency:</b>	USD	<b>PO #:</b>	
<b>Initial Term:</b>	16 months	<b>VAT # (EU only):</b>	

Offer 1

Item Name	Screenshare	Payment Frequency	Initial Term	Quantity	Unit Price	Subtotal
Ninja Professional	Splashtop	Annual	16 months	500	\$1.60	\$9,600.00
Ninja Ticketing - 1 User		Annual	16 months	4	\$25.00	\$1,200.00
<b>Total Annual Amount</b>						<b>\$10,800.00</b>

**Discount Schedule:** Month 1: 100% off, Month 2: 100% off, Month 3: 100% off, Month 4: 100% off

By signing this Order Form, you agree to enter into a subscription for the number of licenses to NinjaOne software set forth below (the "Subscription"), subject to the following terms and conditions:

Licensing a bundle has entitled you to receive a special discount based on the number of Ninja solutions (RMM, security, data protection, etc.) and/or the number of devices in your bundle. If your usage exceeds the number of devices licensed, you will be contacted by your account manager, and the Subscription will be upgraded to include the excess usage at the unit price set forth above. Any request to downgrade the Subscription must be made in writing to [success@ninjaone.com](mailto:success@ninjaone.com) at least 5 business days before the expiration of the Initial Term or any renewal term, as applicable, and the downgrade will take effect upon the next renewal term.

Unless either party provides 60 days' prior written notice of its intent to terminate the Subscription to the other party, upon expiration of the Initial Term and any renewal term, the Subscription will renew for an additional annual term at the then-current price you are paying, plus 2.75%. You must send any such notice to [success@ninjaone.com](mailto:success@ninjaone.com). Any initial ramp or discount given will not be renewed.

The payment method selected upon entry into the Subscription will be used for all subsequent payments thereunder, unless you request to change it by email to [billing@ninjaone.com](mailto:billing@ninjaone.com). If your request is received at least 3 business days before the next billing cycle begins, the change will take effect upon the next billing cycle; otherwise, the change will take effect upon the following billing cycle. Please note that it is your responsibility to ensure that a successful payment is made by each due date, and you will be responsible for any charges or fees resulting from any payment default.

By signing this Order Form, you agree to all of the terms and conditions contained herein, as well as the terms and conditions of the NinjaOne End User License Agreement and any other ancillary agreement(s) between the parties in relation to the licensing of the NinjaOne software.



The following link is to be used if your payment information was not entered immediately upon signature. Please do not share this link with anyone outside of your organization.

<https://scn.ninjaone.com/payment-methods?id=U2FsdGVkX19kJOZ4V2kfSiXW3w7s8YP9oEMAwfJ%252FokA%253D>

## NINJAONE END USER LICENSE AGREEMENT

THIS NINJAONE END USER LICENSE AGREEMENT (THIS “**AGREEMENT**”) IS A LEGAL AND BINDING CONTRACT BETWEEN NINJAONE, LLC (“**NINJAONE**”), ON THE ONE HAND, AND YOU, EITHER INDIVIDUALLY OR ON BEHALF OF THE LEGAL ENTITY THAT ACCEPTS THIS AGREEMENT AND ITS AFFILIATES (“**YOU**” OR “**YOUR**”), ON THE OTHER HAND. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH LEGAL ENTITY (AND ITS AFFILIATES) TO THIS AGREEMENT. YOU INDICATE YOUR ACCEPTANCE AND UNDERSTANDING OF THIS AGREEMENT THROUGH YOUR EXECUTION OF AN ORDER FORM, OR YOUR ACCESS TO OR USE OF THE SOFTWARE, AND THIS AGREEMENT BECOMES EFFECTIVE UPON THE EARLIER OF THE DATE OF YOUR FIRST EXECUTION OF AN ORDER FORM, OR THE DATE OF YOUR FIRST ACCESS TO OR USE OF THE SOFTWARE (THE “**EFFECTIVE DATE**”).

IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, THEN YOU MAY NOT ACCESS, DOWNLOAD, INSTALL, OR USE THE SOFTWARE, AND, TO THE EXTENT APPLICABLE, YOU MUST UNINSTALL THE SOFTWARE FROM ALL OF YOUR DEVICES, CEASE ALL USE OF THE SOFTWARE, AND DESTROY ALL COPIES OF THE SOFTWARE AND DOCUMENTATION IN YOUR POSSESSION.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, NO LICENSE IS GRANTED (WHETHER EXPRESSLY, BY IMPLICATION, OR OTHERWISE) UNDER THIS AGREEMENT, AND THIS AGREEMENT EXPRESSLY EXCLUDES ANY RIGHT CONCERNING ANY SOFTWARE THAT YOU DID NOT ACQUIRE LAWFULLY OR THAT IS NOT A LEGITIMATE, AUTHORIZED COPY OF NINJAONE’S SOFTWARE.

**1. Definitions.** In addition to terms defined elsewhere in this Agreement, the following terms have the meanings provided below wherever used in this Agreement:

- 1.1. “**Affiliate**” means an entity controlled by, under common control with, or controlling such entity, where control is denoted by having 50% or more of the voting power (or equivalent) of the applicable entity.
- 1.2. “**Client**” means, if You are an MSP, Your customer to whom You provide Managed Services that utilize the Software. If You are not an MSP, the term Client does not apply to You or Your use of the Software.
- 1.3. “**Documentation**” means the then-current official user documentation prepared and provided by NinjaOne to You regarding the use of the Software, as updated from time to time.
- 1.4. “**Force Majeure Event**” means an act, event, or circumstance beyond the control of NinjaOne, including, but not limited to, acts of God; systematic electrical, telecommunications, or other utility failures; third-party internet or data storage failures; technological attacks; fires, floods, storms, or other natural disasters; epidemics or pandemics; labor disputes; industrial disturbances; riots; acts or orders of government; and acts of terrorism or war.
- 1.5. “**Fees**” means the subscription and other fees set forth in any Order Form.
- 1.6. “**Managed Services**” means the remote management of the information technology infrastructure and end-user systems of another party.
- 1.7. “**Managed Services Provider**” or “**MSP**” means an individual or legal entity that provides Managed Services.
- 1.8. “**NinjaOne Marks**” means the trademarks and service marks belonging to NinjaOne, including, but not limited to, its registered and common law design marks, word marks, and combinations thereof, that NinjaOne

approves for use by You.

- 1.9. **"Object Code"** means computer programming code in the form not readily perceivable by humans and suitable for machine execution without the intervening steps of interpretation or compilation.
- 1.10. **"Order Form"** means the applicable document or other method by which You procure Software licenses from NinjaOne (including any applicable changes made through a change order or other updates).
- 1.11. **"Personal Data"** means data that is defined as "personal information" or "personal data" under applicable law.
- 1.12. **"SaaS Service"** means the NinjaOne online platform service that utilizes the Software on a hosted basis.
- 1.13. **"Software"** means the Object Code versions of all the software provided by NinjaOne under this Agreement, including software accessible through the SaaS Service and software that You may need to download and install in order to utilize the SaaS Service, as well as each individual component thereof (which may include or consist of Third-Party Products); and any updates, upgrades, or enhancements thereto provided to You by NinjaOne, including, but not limited to, any support software made available via the Internet, email, or any other means. For avoidance of doubt, all references in this Agreement to Software include the SaaS Service.
- 1.14. **"Term"** means the period of time beginning on the Effective Date and ending on the expiration or termination of the subscription set forth in the Order Form (as renewed in accordance with the terms of the Order Form or otherwise by written agreement of the parties).
- 1.15. **"Third-Party Products"** means the open source or third-party software licensed by NinjaOne and incorporated into and/or distributed as part of the Software.
- 1.16. **"User"** means an individual authorized by You or Your Affiliates to use the Software and Documentation or for whom You have procured a license. If You are a legal entity, Users may only include Your employees and contractors.
- 1.17. **"Your Data"** means data, files, or information, including Personal Data, accessed, used, communicated, processed, stored, or submitted by You or Your Users in connection with Your or Your Users' use of the Software.

## 2. License Grants.

2.1. **Subscription License.** If the Software is provided to You on a subscription basis, then, subject to the terms and conditions of this Agreement (including any restrictions set forth in the Order Form and the timely payment of Fees), NinjaOne grants to You, during the Term, a limited, non-exclusive, revocable, non-transferable right and license to: (i) access and use the Software through the SaaS Service; and (ii) to the extent applicable, install and use certain Software specifically provided by NinjaOne for such use. If You are an MSP, You agree that the Software will be used solely in furtherance of Your provision of Managed Services to Clients and not for any other purpose or by any unauthorized third party. If required by NinjaOne in its sole discretion, Your Client(s) shall accept the terms of an end user license agreement for the Software. Subject to the terms and conditions of this Agreement, Your Affiliates may use the license granted hereunder on the condition that You are responsible for Your Affiliates' and Your Affiliates' Users' compliance with this Agreement and their actions and/or omissions.

2.2. **Proprietary Rights.** The Software is licensed to You, not sold. All worldwide ownership of, and all rights, title, and interest in and to the Software, and all copies and portions thereof, including, but not limited to, all copyrights, patent rights, trademark rights, trade secret rights, inventions, and other proprietary rights therein and thereto, are

and shall remain exclusively in NinjaOne or its licensors. The only rights You acquire under this Agreement are those which are expressly stated in this Agreement.

2.3. **NinjaOne Marks.** If You are an MSP, then, subject to the terms and conditions of this Agreement (including any restrictions set forth in the Order Form and the timely payment of Fees), NinjaOne grants You, during the Term, a limited, revocable, non-exclusive, non-transferable, and non-sublicensable license to use the NinjaOne Marks solely to market and advertise to current or prospective Clients that You utilize the Software in the Managed Services. Your use of the NinjaOne Marks is subject to NinjaOne's prior and continued approval. NinjaOne is the sole and exclusive owner of the NinjaOne Marks, and Your use thereof shall inure to the benefit of NinjaOne and shall not create any right, title, or interest in the NinjaOne Marks for Your benefit. You agree that You will not challenge the validity of or NinjaOne's ownership in the NinjaOne Marks, and that You will not adopt or attempt to register any trademark that is confusingly similar to any of the NinjaOne Marks.

### 3. License Restrictions.

3.1. **Restrictions.** Except as expressly permitted in Section 2, You and the Users or Clients shall not: (i) modify, translate, reverse engineer, decompile, disassemble, make derivative works of, or otherwise derive source code from the Software or Documentation, in whole or in part (or, in any instance where the law permits such action, You agree to provide NinjaOne at least 90 days' advance written notice of Your belief that such action is permitted and warranted and to provide NinjaOne with a reasonable opportunity to evaluate whether the law requires such action); (ii) create, develop, license, install, use, or deploy any software or services to circumvent, enable, modify, or provide access, permissions, or rights which violate the technical restrictions of the Software; (iii) use the Software for development or any other non-intended purpose; (iv) sell, resell, rent, lease, or otherwise distribute the Software or Documentation, in whole or in part; (v) assign, sublicense, rent, or otherwise transfer Your access and use rights to the Software under this Agreement without the prior written approval of NinjaOne; (vi) copy, reproduce, republish, upload, post, or transmit the Software or Documentation; or (vii) use the Software if You are a competitor of NinjaOne or for purposes of monitoring the Software's performance, functionality, or availability or for any other benchmarking or competitive purposes.

In addition, You and the Users or Clients shall not use the Software to: (i) defame, abuse, harass, threaten, or otherwise violate the legal rights of others (such as rights of privacy and publicity); (ii) conduct or forward illegal contests, pyramid schemes, chain letters, unsolicited or unauthorized advertising, promotional materials, multi-level marketing campaigns, or emails; (iii) publish, post, distribute, disseminate, or link to any: (a) defamatory, infringing, or unlawful topic, name, material, or information; or (b) software or other material protected by intellectual property laws, copyright licenses, rights of privacy or publicity, or other proprietary rights, unless You own or control such rights or You have received all necessary consents for Your use of such software and other materials; (iv) harvest usernames or email addresses for any purpose; (v) restrict or inhibit any other individual from using and enjoying his/her rights with respect to the Software, services, or website; (vi) interfere with or disrupt the Software, services, website, or networks; or (vii) violate any applicable laws or regulations.

3.2. **Usage Limits.** The Software shall not be installed or used on a number of devices greater than that specified in the Order Form. NinjaOne may monitor Your usage of the Software (including that of the Users or Clients) to ensure that it complies with such usage limits. If the usage limits are exceeded, You shall pay additional fees for the excess usage at the rate(s) set forth, or as otherwise described, in the Order Form. This remains true even if the excess usage results from unauthorized use of the Software.

### 4. Your Obligations. You acknowledge, agree, and warrant that:

4.1. **Authority.** You have the full power and authority to enter into this Agreement and carry out the obligations hereunder.

- 4.2. **Compliance.** You are solely responsible for Your and the Users' or Clients' compliance with this Agreement and all laws and regulations applicable to the use of the Software. If You become aware of any noncompliance with the foregoing by Yourself, any Users or Clients, You shall immediately report the noncompliance to NinjaOne and cure and remedy the noncompliance to the extent feasible.
- 4.3. **Credentials.** You are solely responsible for the safekeeping and confidentiality of Your and the Users' or Clients' usernames and passwords. If You become aware of any breach of confidentiality thereof, You shall immediately cure and remedy the breach and report to NinjaOne any adverse effects or results of the breach.
- 4.4. **Activities.** You are solely responsible for Your and the Users' or Clients' activities in or as a result of using the Software, including, but not limited to: (i) any misuse of the Software; (ii) the information, data, and content entered into the Software or otherwise made available to NinjaOne; (iii) the information, data, and content accessed through the Software or otherwise made available to NinjaOne, its effects, any actions taken in response thereto, and any interpretations thereof; and (iv) the accuracy, quality, integrity, legality, reliability, appropriateness, and copyright of all information, data, and content that You, the Users or Clients allow the Software to access or otherwise make available to NinjaOne. You will provide any notices and obtain any consents that may be legally required for NinjaOne to engage in the activities contemplated by this Agreement.
- 4.5. **Equipment and Ancillary Services.** You are solely responsible for acquiring and maintaining any equipment or ancillary services needed to connect to, access, or otherwise use the Software, including, but not limited to, modems, hardware, software, and internet service, and for ensuring that such equipment and ancillary services are compatible with the Software.
- 4.6. **Export Control Laws.** The Software, Documentation, and any related technical data, and products utilizing the Software, Documentation, or such technical data (collectively, "Controlled Technology") are subject to U.S. export control laws, including the U.S. Export Administration Act and its associated regulations. You shall not, and shall not permit any third parties to, export, re-export, or release, directly or indirectly, any Controlled Technology to a jurisdiction or country to which the export, re-export, or release of any Controlled Technology is prohibited by applicable federal law, regulation, or rule. You shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval) prior to exporting or re-exporting any Controlled Technology. You shall provide prior written notice of the need to comply with such laws and regulations to any person, firm, or entity which You have reason to believe is obtaining any such Controlled Technology from You with the intent to export. Any breach by You of this Subsection 4.6 shall be deemed a material, uncurable breach of this Agreement.
- 4.7. **Anti-Corruption; OFAC.** You acknowledge and agree that You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of NinjaOne in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify NinjaOne. You represent and warrant to NinjaOne that none of (a) You, (b) each person or entity owning an interest in You (as applicable), nor (c) the Users are (x) currently identified on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, U.S. Department of the Treasury ("OFAC"), nor on any other similar list maintained by OFAC pursuant to any authorizing statute, executive order or, regulation, or (y) a person or entity with whom a citizen of the U.S. is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of U.S. law, regulation, or Executive Order of the President of the United States.
- 4.8. **Liability Disclaimer.** NINJAONE (INCLUDING ITS DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, AGENTS, AFFILIATES, AND SUCCESSORS) SHALL NOT BE LIABLE IN ANY MANNER FOR ANY DAMAGES RESULTING

FROM YOUR FAILURE TO FULFILL THE FOREGOING RESPONSIBILITIES UNDER THIS SECTION 4, INCLUDING, BUT NOT LIMITED TO, DAMAGES RESULTING FROM ANY MISUSE OF THE SOFTWARE OR ANY DELETION, DESTRUCTION, LOSS, OR UNAUTHORIZED ACCESS TO THE DATA STORED THEREIN.

## 5. Data Use and Protection.

5.1 **Your Data.** NinjaOne acknowledges and agrees that, as between NinjaOne and You, You own all right, title, and interest in and to Your Data. You grant to NinjaOne a non-exclusive, royalty-free, worldwide license to use, reproduce, store, process, and display Your Data and perform all acts with respect to Your Data, but only to the extent necessary for NinjaOne to provide the Software and support to You, and/or to comply with its obligations under this Agreement, the Data Processing Addendum, or applicable law.

5.2 **Protection of Your Data.** NinjaOne shall comply with its obligations under applicable data protection laws and shall maintain appropriate administrative, physical, technical, and organizational measures that ensure an appropriate level of security for Your Data. You acknowledge and agree that any Personal Data contained in Your Data is voluntarily provided by You solely based on how You choose to use the Software and/or manage devices on which the Software is deployed. To the extent that Your Data contains Personal Data, and You have executed the Data Processing Agreement (“**DPA**”) as instructed [here](#), NinjaOne will process such Personal Data in accordance with the DPA. Upon execution by both parties and NinjaOne’s receipt of the executed DPA, the DPA shall be incorporated by reference into this Agreement. You are responsible for ensuring that the security of the Software is appropriate for Your intended use.

5.3 **Representations, Warranties, and Covenants Concerning Use.** You acknowledge and agree that You will not input, store, or upload into the SaaS Service environment any data whatsoever that is subject to laws or regulations that require heightened or specific security measures, including, but not limited to, International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR), or the Digital Millennium Copyright Act (DMCA).

6. **Third-Party Products.** You acknowledge and understand that Third-Party Products are embedded or incorporated in, or distributed with, the Software and may be governed by their own license terms (collectively, “**Third-Party License**”). A list of the Third-Party Products, as well as links to each of their respective Third-Party Licenses, may be found [here](#). Nothing in this Agreement limits Your, the Users’ or Clients’ rights under, nor grants You, the Users or Clients any rights that supersede, the terms of any applicable Third-Party License (including, but not limited to, those concerning proprietary rights to the Third-Party Products). If You, any User or Client do(es) not agree to the Third-Party License terms, then You, such User or Client shall not use the Software, respectively.

To the extent the provisions of a Third-Party License applicable to an open source component of the Software prohibit any of the restrictions in this Agreement with respect to such open source component, such restrictions will not apply to the open source component affected by such prohibition. To the extent that the provisions of the Third-Party License applicable to open source components of the Software require NinjaOne to make an offer to provide source code or related information in connection with such open source components, such offer is hereby made.

7. **Fees and Payment.** Fees shall be due and payable as set forth on the Order Form and as otherwise required under this Agreement. Failure to pay Fees on time may result in the termination of this Agreement and/or the suspension of Your and the Users’ or Clients’ access to and use of the Software as described in Section 8. In addition, for any past due amount, NinjaOne may charge interest at 1.0% per month or the maximum rate allowed by applicable law, whichever is lower. Except as expressly set forth herein or in the Order Form, all Fees paid or payable are non-cancellable and non-refundable to the maximum extent permitted by law.

7.1. **Disputed Fees.** If You believe that any invoice for Fees is in error, You must notify NinjaOne in writing of such error within 25 days of Your receipt of such invoice. Failure to provide such notice shall constitute Your waiver of Your right to dispute the invoice. If appropriate, NinjaOne shall rectify the error by reducing the amount of the next invoice following the parties' resolution of such error, or by any other means agreed between the parties.

7.2. **Taxes.** All Fees are exclusive of taxes. You are responsible for paying all taxes. As used in this Subsection, "taxes" include any sales, use, or other similar taxes (other than taxes on NinjaOne's income), as well as any export and import fees, customs duties, or similar charges applicable to the transactions contemplated by this Agreement that are imposed by a government or other authority.

7.3. **Fee Changes.** NinjaOne may change Fees for the Software from time to time, in its sole discretion. Any Fee changes will be effective upon the commencement of Your next renewal term, provided that NinjaOne shall provide You with reasonable notice of any such Fee change prior to the expiration of the then-current term. Notice under this Subsection 7.3 may be given to any of Your personnel who regularly interact with NinjaOne in relation to the Software.

## 8. Term and Termination.

8.1. **Term.** The term of this Agreement (including the access and licenses granted herein) shall begin on the Effective Date and shall expire upon the expiration or termination of the subscription set forth in the Order Form (as renewed in accordance with the terms of the Order Form or otherwise by written agreement of the parties). This Agreement may be terminated prior to the expiration or termination of the subscription only in accordance with this Section 8. The termination of this Agreement shall operate to immediately terminate the subscription set forth in the Order Form (if not already expired).

8.2. **Termination for Convenience.** Unless a shorter or longer notice period is set forth on the Order Form, either party may terminate this Agreement with 60 days' prior written notice to the other party. The termination shall take effect upon the expiration of the term that is in effect on the last day of the notice period. You shall send such notices to [success@ninjarmm.com](mailto:success@ninjarmm.com). Any Fees due and payable under the Order Form during the notice period shall remain so due and payable.

8.3. **Termination or Suspension for Cause.** NinjaOne may suspend access to the SaaS Service or terminate this Agreement with 30 days' written notice to You if You, the Users or Clients breach this Agreement, unless the breach is cured within the 30-day notice period. Notwithstanding the foregoing, if You fail to pay any amount due under this Agreement on the due date and remain in default for more than 10 days after NinjaOne gives written notice to You to make payment, NinjaOne may immediately suspend access to the SaaS Service or terminate this Agreement. In addition, NinjaOne may terminate this Agreement immediately if (i) You, the Users or Clients breach this Agreement, and the breach is egregious, uncurable, and/or would damage the Software or NinjaOne's reputation; or (ii) if You become insolvent or if bankruptcy or receivership proceedings are initiated by or against You. NinjaOne's decision to suspend access to the SaaS Service is without prejudice to its right to terminate this Agreement for the same cause(s) underlying the suspension.

### 8.4 Effects of Termination.

8.4.1 **License and Access Ends.** Upon the expiration of the Term or termination of this Agreement for any reason, all rights granted to You under this Agreement shall cease and You and the Users or Clients shall immediately (i) cease using the Software (if not already done); and (ii) destroy all copies of the Software and Documentation in Your and their possession; or (iii) if instructed by NinjaOne, return all copies of the Software and Documentation in Your



and their possession to NinjaOne. If You and the Users or Clients do not immediately cease using the Software in accordance with this Subsection 8.4, NinjaOne may immediately terminate Your and the Users' or Clients' access to and use of the Software without notice.

**8.4.2 Payments.** Upon the expiration of the Term or termination of this Agreement, all amounts owing by You to NinjaOne shall become immediately due and payable, and You shall immediately pay all such amounts to NinjaOne. If this Agreement is terminated via NinjaOne's right to terminate under Subsection 8.3, NinjaOne shall, in addition to any other rights under this Agreement or otherwise, be entitled to collect from You all of the Fees that remain payable under this Agreement for the entire Term.

**8.5 Survival.** Any provision of this Agreement that by its nature is intended to survive the expiration or termination of this Agreement shall so survive. These include, but are not limited to, the provisions of Section 6 (Third-Party Products), Section 7 (Fees and Payment), Section 10 (Limitation of Liability), Section 11 (Indemnification), and 13 (General).

## **9. Warranties.**

**9.1 Limited Warranty.** NinjaOne warrants that it can enter into this Agreement and that it has the right to grant the Software licenses as set forth herein. NinjaOne also warrants that the Software will operate substantially in accordance with the specifications set forth in the Documentation, under ordinary operating circumstances, for a period of 30 days following the Effective Date. If You notify NinjaOne in writing of a breach of this warranty during the period set forth above, then (i) NinjaOne will correct, repair, or replace the Software within a reasonable time; or (ii) if NinjaOne determines that such correction, repair, or replacement is not feasible, You may terminate this Agreement on written notice to NinjaOne, and You will be entitled to a refund any pre-paid Fees for such non-compliant Software. The foregoing options constitute NinjaOne's entire liability and Your sole remedy in the event of a breach of the foregoing warranties. The foregoing warranties do not apply to Third-Party Products or to SDKs/APIs. Further, the warranties set forth in this Subsection 9.1 do not apply if (i) the Software has not been used in accordance with the terms and conditions of this Agreement, the Documentation, or applicable laws; (ii) the Software has been used for a purpose or application for which it was not intended; (iii) the breach is a result of any act or omission by You or any third party (including, but not limited to, alteration, abuse, or damage) or by the use of any materials supplied by You or any third party; (iv) the breach has been caused by Your failure to apply updates or upgrades, or to comply with any recommendation or instruction of NinjaOne; or (v) the breach results from any cause outside of NinjaOne's reasonable control.

**9.2 Warranty Disclaimer.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH ABOVE, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SOFTWARE, DOCUMENTATION, SAAS SERVICE, AND NINJAONE MARKS ARE PROVIDED AND LICENSED "AS IS" AND "AS AVAILABLE," WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, AND NINJAONE HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND TITLE. YOU EXPRESSLY ACKNOWLEDGE THAT THE SOFTWARE, DOCUMENTATION, AND SAAS SERVICE MAY CONTAIN TECHNICAL INACCURACIES OR TYPOGRAPHICAL ERRORS. NO EMPLOYEE, CONTRACTOR, AGENT, AFFILIATE, REPRESENTATIVE, RESELLER, DEALER, OR DISTRIBUTOR OF NINJAONE IS AUTHORIZED TO MODIFY THESE WARRANTY TERMS OR TO MAKE ANY ADDITIONAL WARRANTIES. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

## **10. Limitation of Liability.**

**10.1 No Special Damages.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL NINJAONE (INCLUDING ITS DIRECTORS,



OFFICERS, EMPLOYEES, CONTRACTORS, AGENTS, AFFILIATES, AND SUCCESSORS) BE LIABLE TO YOU, THE USERS OR CLIENTS FOR ANY SPECIAL, INDIRECT, NON-COMPENSATORY, CONSEQUENTIAL, INCIDENTAL, STATUTORY, OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THOSE RELATED TO LOSS OR PRIVACY OF DATA OR PROGRAMS, BUSINESS INTERRUPTIONS, OR LOST PROFITS OR REVENUE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, STATUTE, OR OTHERWISE, EVEN IF NINJAONE IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OF THE FOREGOING DAMAGES, THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

**10.2 Damages Cap.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL NINJAONE (INCLUDING ITS DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, AGENTS, AFFILIATES, AND SUCCESSORS) BE LIABLE TO YOU, THE USERS OR CLIENTS IN RELATION TO THE SOFTWARE, DOCUMENTATION, SAAS SERVICE, OR THIS AGREEMENT IN AN AGGREGATE AMOUNT GREATER THAN (i) THE AMOUNT OF FEES PAID OR PAYABLE BY YOU UNDER THE ORDER FORM DURING THE 12 MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY, OR (ii) \$5,000, WHICHEVER IS GREATER. THE PARTIES ACKNOWLEDGE AND AGREE THAT THEY HAVE FULLY CONSIDERED THE FOREGOING ALLOCATION OF RISK AND FIND IT REASONABLE, AND THAT THE FOREGOING LIMITATIONS ARE AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

## **11. Indemnification.**

**11.1 Indemnification by You.** You shall indemnify, defend (through use of counsel acceptable to NinjaOne), and hold harmless NinjaOne (including its directors, officers, employees, contractors, agents, Affiliates, and successors) from and against any and all claims, demands, losses, liabilities, and costs (including, but not limited to, reasonable attorney's fees and costs) arising from Your or the Users' or Clients' (i) breach of this Agreement or violation of applicable law; (ii) installation, use, or misuse of, or failure to prevent unauthorized access to, the Software or the data stored therein; (iii) infringement of third-party intellectual property rights (except to the extent directly resulting from the use of the Software by You, the Users or Clients) or violation of third-party privacy rights; and (iv) willful misconduct or fraud.

**11.2 Indemnification by NinjaOne.** NinjaOne shall indemnify, defend, and hold You harmless from and against any and all third-party claims, demands, losses, liabilities, and costs (including, but not limited to, reasonable attorney's fees and costs) arising from NinjaOne's infringement of third-party intellectual property rights directly resulting from the use of the Software by You, the Users or Clients. This Subsection 11.2 states NinjaOne's entire liability (and shall be Your sole and exclusive remedy) with respect to infringement claims.

The foregoing obligations do not apply (i) with respect to Software or components thereof which have been (a) supplied other than by NinjaOne (including Third-Party Products), (b) modified in whole or in part in accordance to Your specifications, (c) modified by You, the Users or Clients after delivery by NinjaOne, or (d) combined with other products, processes, or materials where the alleged infringement relates to such combination; (ii) where You continue the allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement; or (iii) where the use of the Software by You, the Users or Clients is not strictly in accordance with this Agreement or the Documentation.

**11.3 Indemnification Procedure.** The obligations in Sections 11.1 and 11.2 are subject to the indemnifying party being promptly notified of any and all threats, claims, and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over the defense and all negotiations for a settlement or compromise.

**12. U.S. Government Use.** If You are an agency or instrumentality of the United States Federal Government ("USG") or if You are or a prime contractor or subcontractor (at any tier) under any contract, grant, cooperative

agreement, or other activity with the USG and acquiring a license to use the Software on behalf of the USG, You agree that the Software and Documentation are "commercial items," as defined in the Federal Acquisition Regulation ("FAR") (48 C.F.R.) 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212. [Consistent with](#) FAR 12.211 (Technical Data) and FAR 12.212 (Computer Software) and Defense Federal Acquisition Regulation Supplement ("DFAR") 227.7202-1 through 227.7202-4, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which this Agreement may be incorporated, You will acquire the Software and Documentation with only those rights set forth in this Agreement. Any license provisions that are inconsistent with federal procurement regulations are not enforceable against the USG.

### 13. General.

13.1. **Feedback.** Any suggestions, feedback, or proposed modifications to the Software (in any form) provided by You to NinjaOne may be freely used by NinjaOne without limitation, and any modifications to the Software resulting from such suggestions, feedback, or proposed modifications shall be exclusively owned by NinjaOne.

13.2. **Monitoring.** The Software is equipped with a feedback mechanism, technological copy protection, or other security features designed to prevent unauthorized use of the Software and to provide NinjaOne with data relating to Your and the Users' or Clients' use of the Software. NinjaOne may use this data only for internal business purposes, and NinjaOne shall not share or disclose this data with any third parties, unless required by law or legal process. You and the Users or Clients shall not, and shall not attempt to, remove, disable, circumvent, or otherwise create or implement any workaround to, any such copy protection or security features.

13.3. **Set Off.** NinjaOne may set off any payment due to You, whether under this Agreement or otherwise, against any claim that NinjaOne has against You, whether under this Agreement or otherwise.

13.4. **Agreement Updates.** NinjaOne may update this Agreement from time to time. NinjaOne will post the updated version on its website or otherwise provide You notice thereof. If You do not agree to the updated terms, You shall notify NinjaOne in writing within 30 days following the update, and You shall have the opportunity to terminate the Agreement and receive a refund of any pre-paid Fees for the unused portion of the subscription set forth the Order Form at the time of the termination. Your failure to provide such notice, and/or Your continued use of the Software for more than 30 days following the update, shall constitute Your acceptance of any updated terms.

13.5. **Conflicts.** To the extent that any term of this Agreement conflicts with that of an Order Form, the Order Form shall control and govern the rights and obligations of the parties.

13.6. **Governing Law; Jurisdiction.** This Agreement shall be construed and governed in accordance with the laws of the State of Texas, without regard to the choice or conflicts of law provisions of any jurisdiction. The 1980 United Nations Convention on Contracts for the International Sale of Goods and its related instruments shall not apply to this Agreement. Any dispute, action, claim, or cause of action arising out of or in connection with this Agreement or the Software shall be subject to the exclusive jurisdiction of the state and federal courts located in Travis County, Texas, and the parties irrevocably submit to the personal jurisdiction of such courts.

13.7. **Force Majeure.** The failure of NinjaOne to comply with any provision of this Agreement due to a Force Majeure Event shall not be considered a breach of this Agreement.

13.8. **Remedies.** Each party acknowledges that a breach of this Agreement by the other party (and, where applicable, Users or Clients) may cause irreparable harm to the non-breaching party for which monetary damages are an insufficient remedy, and that the non-breaching party shall have the right to seek and recover equitable

relief, including, but not limited to, an injunction or decree for specific performance, without the requirement of posting bond or proving damages. The non-breaching party's exercise of this right shall not waive its right to assert any other legal right or obtain any other remedy permitted under this Agreement or by applicable law. Each party's remedies set forth in this Agreement are cumulative and are in addition to, and not in lieu of, all other remedies each party may have at law or in equity, whether under this Agreement or otherwise.

13.9 **Attorney's Fees.** In the event of litigation between the parties concerning this Agreement or the Software, the prevailing party in the litigation shall be entitled to recover its reasonable attorney's fees and costs from the other party.

13.10 **Notice.** Except as otherwise provided in this Agreement or the Order Form, any notice or report required to be given under this Agreement shall be given as follows:

If to You, by email to the "Buyer Email" or "Licensee Email" address listed on the Order Form.

If to NinjaOne, by email to [EULA@ninjaone.com](mailto:EULA@ninjaone.com).

13.11 **Severability.** If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of the Agreement, which shall remain valid and enforceable according to its terms.

13.12 **Waiver.** The delay or failure of either party to exercise any right provided in this Agreement shall not be deemed a waiver of that right. No waiver of any breach of this Agreement shall be a waiver of any other breach, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party.

13.13 **Promotions.** By executing this Agreement, You give NinjaOne permission to contact, and use information about, You for the purposes of promoting goods and services to You. In addition, unless You give written notice of Your revocation of the following permission to NinjaOne, by executing this Agreement, You give permission for NinjaOne to publish Your name and logo in lists of customers, for publicity and promotional purposes.

13.14 **Entire Agreement.** This Agreement, together with the Order Form(s), embraces the full, complete understanding of the parties as to the subject matter hereof. All prior or contemporaneous representations, understandings, and agreements between the parties regarding the subject matter hereof, whether written or oral, expressed or implied, are superseded by this Agreement and shall be of no effect.

13.15 **Assignment.** You may not assign any of Your rights under this Agreement without the prior written consent of NinjaOne. Any purported assignment or delegation in violation of this Subsection 13.15 shall be null and void. An amalgamation, merger, change in control, re-organization, or other similar transaction by You (including, but not limited to, an asset sale, stock sale, reverse merger, or reverse triangular merger) shall require NinjaOne's consent pursuant to this Subsection 13.15. Furthermore, for the purposes of this Agreement, (i) the acquisition of an equity interest in You of greater than 50 percent by any third party, or (ii) the acquisition of an equity interest by You of greater than 50 percent of any third party, shall be considered an "assignment." NinjaOne may assign this Agreement to any third party that succeeds to NinjaOne's interests in the Software and assumes the obligations of NinjaOne hereunder, and NinjaOne may assign its right to payment hereunder or grant a security interest in this Agreement or such payment right to any third party.

13.16 **No Third-Party Beneficiary.** Except as otherwise expressly provided herein, no third party is or shall be a beneficiary of this Agreement, and no third party (including, but not limited to, a Client or Affiliate) shall have the right to enforce this Agreement.

13.17 **Electronic Transaction; Electronic Communications.** The parties agree that this Agreement may be formed, executed, and/or delivered by electronic means, including the use of electronic signatures and/or electronic agents. NinjaOne shall be entitled to communicate with You via email or other electronic communications. You consent to these communications and others regarding the Software, new product releases, upgrades, and other information that NinjaOne believes may be relevant to use of the Software.

#### 14. **Special Terms for Certain Products.**

14.1 **Documentation Data Importation.** The following terms apply only to the extent that You import documentation data from a third-party provider to NinjaOne. In order to complete such importation, You must use the CSV form accessible on the NinjaOne platform for such purposes. You are solely responsible for the complete and accurate entry and saving of all documentation data in(to) the CSV form, including any errors or omissions. You represent and warrant as follows: (i) the documentation data is rightfully owned, in whole, by You, and You have unconditional authority to import the documentation data to NinjaOne; and/or the documentation data is rightfully owned, at least in part, by the individuals or entities who (or whose devices) are the subjects of the documentation data, and You have received all necessary consents from such individuals or entities to import the documentation data to NinjaOne; (ii) to the extent that You use a copy-and-paste function to enter the documentation data into the CSV form, or You enter the documentation data into the CSV form such that the manner in which the documentation data was compiled, organized, or presented by the third-party provider is maintained, You have the right to import the documentation data to NinjaOne in such manner; and (iii) importing the documentation data to NinjaOne will not cause You to be in breach of any contract or other agreement with any third party or of any third party's intellectual property or privacy rights. Notwithstanding anything to the contrary in this Agreement, and without limiting NinjaOne's other rights or Your other obligations under this Agreement, You shall indemnify, defend (through use of counsel acceptable to NinjaOne), and hold harmless NinjaOne (including its directors, officers, employees, contractors, agents, Affiliates, and successors) from and against any and all claims, demands, losses, liabilities, and costs (including, but not limited to, reasonable attorney's fees and costs) arising from Your importation of documentation data to NinjaOne.

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

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

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

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

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

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

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

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

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

**READ, PASSED, and ADOPTED this 12th day of June 2023.**

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

**ATTEST:**

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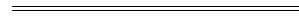
*Lisa Thomas, City Clerk-Treasurer*  
**City of Madison, Alabama**

**APPROVED this \_\_\_\_\_ day of May 2023.**

---

*Paul Finley, Mayor*  
**City of Madison, Alabama**

**EXHIBIT A**



***Franchise Agreement***

between

***City of Madison, Alabama***

and

***Knology of Huntsville, Inc.***

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**AGREEMENT**

This **AGREEMENT** is effective as of the 22<sup>nd</sup> day of May 2023 (the “Effective Date”), and is between the City of Madison, Alabama (the “Franchising Authority” or the “City”), and Knology of Huntsville, Inc. (the “Company”). For purposes of this Agreement, unless otherwise defined in this Agreement, the capitalized terms, phrases, words, and their derivations, shall have the meanings set forth in Appendix A.

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

**SECTION 1  
GRANT OF AUTHORITY**

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

1.2 Term of Franchise. This Franchise shall be in effect for a period of ten (10) years commencing on the Effective Date, unless renewed or lawfully terminated in accordance with this Agreement and the Cable Act.

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

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

## 1.5 Competitive Equity and Subsequent Action Provisions.

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

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

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

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

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

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

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

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

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

## SECTION 2 THE CABLE SYSTEM

### 2.1 The System and Its Operations.

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

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

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

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

### 2.2 Requirements with Respect to Work on the System.

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

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

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

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

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

## 2.3 Permits and General Obligations.

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

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

## 2.4 Conditions on Street Occupancy.

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

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

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

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

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

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

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

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

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

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

**SECTION 3  
CUSTOMER SERVICE**

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

**SECTION 4  
COMPENSATION AND OTHER PAYMENTS**

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

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

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

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

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

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

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

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



## SECTION 5 COMPLIANCE REPORTS

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

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

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

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

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

## SECTION 6 ENFORCEMENT

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

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

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

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

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

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

6.5 Revocation.

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

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

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

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

## **SECTION 7 ASSIGNMENTS AND OTHER TRANSFERS**

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

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

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

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

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

## **SECTION 8 INSURANCE, INDEMNITY AND BOND**

### **8.1 Insurance.**

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

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

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

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

8.4 Bond, Certificate of Deposit or Letter of Credit. The Company shall obtain and maintain, or cause to be obtained and maintained, during the entire term of the franchise and any extensions and renewals thereof, at its cost and expense, and file with the City Clerk a corporate surety (performance) bond, certificate(s) of deposit assigned to the City or irrevocable, unconditional letter of credit in the amount of Fifty Thousand Dollars (\$50,000), both to guarantee the timely construction and full activation of the Company's system and to secure the faithful performance of the Company and its subcontractors of all its obligations provided under this Franchise Agreement. The amount of such bond, certificate(s) of deposit or letter of credit shall be increased to the amount of One Hundred Thousand Dollars (\$100,000) following the initial ten (10) year term of this Agreement. Failure to timely obtain, file, assign and/or maintain such bond, certificate(s) of deposit or letter of credit at all times at the required amount shall constitute a substantial violation of this Agreement. If the Company elects to deposit and assign for the benefit of the City a certificate(s) of deposit, any interest earned on the principal sum required shall inure to the benefit of the Company and any tax liability on said interest will inure to the Company. The performance bond shall provide, and certificate(s) of deposit and letter of credit shall be subject to, the following conditions:

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

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

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

## SECTION 9 PUBLIC, EDUCATION, GOVERNMENT ACCESS

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

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

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

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

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

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

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

9.7.1 Company and the City acknowledge that the FCC-s Third Report and Order in MB Docket No. 05-311, entitled In the Matter of Implementation of Section 621(a)(I) of the Cable Communication Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992, adopted on August 1, 2019 and released on August 2, 2019 ("Third Section 621 Order"), concluded that certain in-kind contributions required

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

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

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

**SECTION 10  
MISCELLANEOUS**

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**City of Madison, Alabama**

By: \_\_\_\_\_

Name: Paul Finley

Title: Mayor

(Seal)

Attest: \_\_\_\_\_

Date: \_\_\_\_\_

**Knology of Huntsville, Inc.**

By: \_\_\_\_\_

Name:

Title:

Attest: \_\_\_\_\_

Date: \_\_\_\_\_

## APPENDIX A DEFINED TERMS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“**Gross Revenues**” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**APPENDIX B**  
**CUSTOMER SERVICE STANDARDS**

Code of Federal Regulations  
Title 47, Volume 4, Parts 70 to 79  
Revised as of October 1, 1998  
From the U.S. Government Printing Office via GPO Access  
47 C.F.R. § 76.309  
Page 561–63

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

**§ 76.309 Customer service obligations.**

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

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

- (1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section.
- (2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements.
- (3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or
- (4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

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

(1) Cable system office hours and telephone availability—

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

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



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

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

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

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

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

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

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

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

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

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

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

(3) Communications between cable operators and cable subscribers—

(i) Notifications to subscribers—

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

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

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

(ii) Billing—

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

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

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

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

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

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

(4) Definitions—

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

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

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

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

**RESOLUTION NO. 2023-163-R**

**A RESOLUTION ACCEPTING A DEDICATION OF PROPERTY  
ADJACENT TO KYSER BOULEVARD FOR A CITY RIGHT-OF-WAY**

**WHEREAS**, Smart Living LLC, a Delaware limited liability company, completed a development adjacent to Kyser Boulevard known as the Bradford Station; and

**WHEREAS**, upon completion of said development, Smart Living LLC wishes to convey a tract of land along Kyser Boulevard to the City as a right-of-way;

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

1. That in the judgment and opinion of the City Council of the City of Madison, it is in the public interest and necessary and expedient that the City of Madison acquire the tract of property, which is described with particularity in the attached Quitclaim Deed.
2. The exhibits depicting the tract are attached hereto and incorporated herein, and copies will be permanently kept on file in the Office of the City Clerk-Treasurer of the City of Madison, Alabama.
3. That the City shall hereby accept the donation and dedication of the tract from the owner.
4. That the Mayor of the City of Madison, or his designee, is authorized, empowered, and directed to execute all documents necessary to acquire the donated tract.

**READ, PASSED, AND ADOPTED** at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 22<sup>nd</sup> day of May 2023.

ATTEST:

\_\_\_\_\_  
*Ranae Bartlett, Council President*  
City of Madison, Alabama

\_\_\_\_\_  
*Lisa Thomas, City Clerk-Treasurer*  
City of Madison, Alabama

APPROVED this \_\_\_ day of May 2023

\_\_\_\_\_  
*Paul Finley, Mayor*  
City of Madison, Alabama

STATE OF ALABAMA )  
COUNTY OF MADISON ) QUITCLAIM DEED

THIS INDENTURE made and entered into on this the \_\_\_\_ day of \_\_\_\_\_, 2023, by and between SMART LIVING, LLC, a Delaware limited liability company, as Grantor, and THE CITY OF MADISON, as Grantee.

WITNESSETH: That the Grantor for and in consideration of the sum of Ten and no/100 Dollars (\$10.00) to it, cash in hand, paid this day by the Grantee, and other good and valuable consideration, receipt of which is hereby acknowledged, has this day remised, released, quitclaimed and conveyed and does by these presents, remise, release, quitclaim and convey unto the Grantee all of the right, title, claim, interest and demand of the Grantor in and to that certain real estate lying and being situated in the County of Madison, State of Alabama, to-wit:

KYSER BOULEVARD RIGHT-OF-WAY

ALL THAT PART OF SECTION 17, TOWNSHIP 4 SOUTH, RANGE 2 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY, ALABAMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT A CAPPED REBAR FOUND AT THE SOUTHWEST CORNER OF SAID SECTION 17, THENCE SOUTH 89 DEGREES 11 MINUTES 17 SECONDS EAST, 1858.98 FEET TO A CAPPED REBAR FOUND; THENCE SOUTH 89 DEGREES 09 MINUTES 32 SECONDS WEST, 694.53 FEET TO A CAPPED REBAR FOUND; THENCE NORTH 01 DEGREES 48 MINUTES 38 SECONDS EAST, 1417.36 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;

THENCE FROM THE POINT OF BEGINNING CONTINUE NORTH 01 DEGREES 48 MINUTES 38 SECONDS EAST, 101.98 FEET TO A POINT;  
THENCE NORTH 80 DEGREES 30 MINUTES 03 SECONDS EAST, 155.25 FEET TO A POINT;  
THENCE SOUTH 01 DEGREES 48 MINUTES 38 SECONDS WEST, 101.98 FEET TO A POINT;  
THENCE SOUTH 80 DEGREES 30 MINUTES 03 SECONDS WEST, 155.25 FEET TO THE POINT OF BEGINNING AND CONTAINING 15525 SQUARE FEET (0.356 ACRES), MORE OR LESS.

IN WITNESS WHEREOF, the said Smart Living, LLC, a Delaware limited liability company, has caused these presents to be executed by Louis W. Breland as its Manager, on the day and year first above written.

SMART LIVING, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Louis W Breland  
Its: Manager

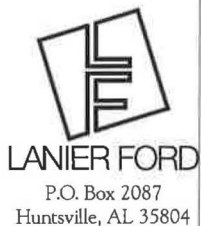
STATE OF ALABAMA )  
COUNTY OF MADISON )

I, the undersigned, a Notary Public in and for the above County, in said State, hereby certify that, Louis W. Breland, as Manager of Smart Living, LLC a Delaware limited liability company, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that being informed of the contents of the conveyance, he, as such officer, and with full authority, executed the same voluntarily for and as the act of Smart Living, LLC, a Delaware limited liability company .

Given under my hand this the \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
NOTARY PUBLIC -  
My Commission Expires: \_\_\_\_\_

[SEAL]



THIS INSTRUMENT WAS PREPARED SOLELY FROM INFORMATION PROVIDED TO THE PREPARER OF THIS INSTRUMENT WHO CONDUCTED NO TITLE EXAMINATION, AND WHO ISSUED NO TITLE OPINION OR TITLE INSURANCE.

SEND TAX NOTICES TO:

The City of Madison  
100 Hughes Road  
Madison, AL 35758

Pursuant to and in accordance with Section 40-22-1 of the Code of Alabama (1975), the following information is offered in lieu of submitting Form RT-1:

Grantors' Address: 2101 West Clinton Avenue, Huntsville, AL 35805  
Grantee's Address: 100 Hughes Road, Madison, AL 35758  
Property Address: Kyser Boulevard Right of Way  
Purchase Price: \$ EXEMPT

The purchase price or actual value claimed in this instrument can be verified in the following documentary evidence:

Bill of Sale     Sales Contract     Closing Statement     Appraisal     Other

THIS INSTRUMENT PREPARED BY:  
PAUL B. SEELEY  
LANIER FORD SHAVER & PAYNE P.C.  
2101 WEST CLINTON AVENUE, SUITE 102  
HUNTSVILLE, ALABAMA 35805.  
(256) 535-1100

PBS/cj

S:\Johnsonyam\FORMS\Deed forms\QC - Quitclaim\QC Deed fr Smart Living to City of Madison Kyser Blvd ROW.wpd

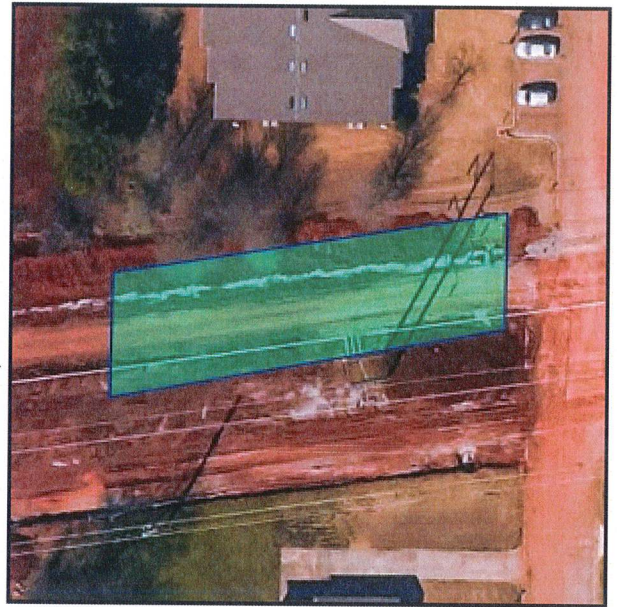


MADISON COUNTY  
Property Appraisal and Tax Payments

Current Date: 4/4/2023 Tax Year: 2022

Parcel Info

**PIN** 552332  
**PARCEL** 16-04-17-4-001-013.001  
**ACCOUNT NUMBER** 463076  
  
**OWNER** SMART LIVING LLC  
**MAILING ADDRESS** 2101 W CLINTON AVE STE 201,  
 HUNTSVILLE, AL 35801  
**PROPERTY ADDRESS** 0 KYSER BLVD  
  
**LEGAL DESCRIPTION** PART OF LOT 1 NORTH KYSER S/D PB 38 PG  
 34 DESC AS BEG AT THE SW COR OF SD LOT  
 1 TH N 50.67 FT TH N 81 DEG E 154.87 FT  
 TH S 50.68 FT TH S 81 DEG W 154.81 FT TO  
 THE POB  
  
**EXEMPT CODE**  
**TAX DISTRICT** MADISON



Tax Information

TAXES WERE DUE ON 10/1/2022

PPIN	YEAR	TAX TYPE	TAX DUE	PAID	BALANCE
552332	2022	REAL	\$ 152.21	\$ 0.00	\$ 152.21

**Total Due: \$ 152.21**

LAST PAYMENT DATE \*\*N/A\*\*  
 PAID BY

Property Values

Total Acres	0.18
Use Value	\$0
Land Value	\$8,800
Improvement Value	\$0
Total Appraised Value	\$8,800
Total Taxable Value	\$8,800
Assessment Value	\$1,760

Subdivision Information

Code	5035
Name	NORTH KYSER S/D
Lot	1
Block	
Type / Book / Page	WARR / 2018 / 7578
S/T/R	17-4S-2W

Detail Information

TYPE	REF	DESCRIPTION	LAND USE	TC	HS	PN	APPRAISED VALUE
LAND	1	0.181 Acres	1110-ONE FAMILY	2	N	N	\$8,800

## Building Components

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MADISON COUNTY  
Property Appraisal and Tax Payments

Current Date: 4/4/2023 Tax Year: 2022

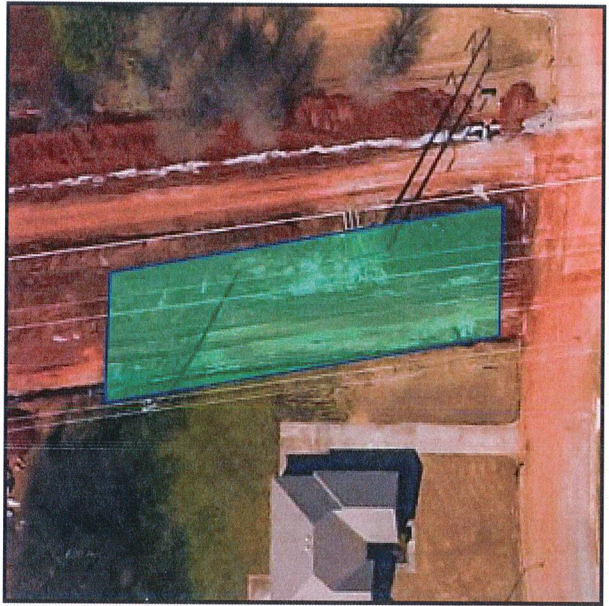
Parcel Info

**PIN** 548237  
**PARCEL** 16-04-17-4-002-036.001  
**ACCOUNT NUMBER** 449447

**OWNER** SMART LIVING LLC  
**MAILING ADDRESS** 2101 WEST CLINTON AVE STE 201,  
 HUNTSVILLE, AL 35805  
**PROPERTY ADDRESS** 0 TODD DR

**LEGAL DESCRIPTION** PRT OF LOT 8 BLK 1 FIELDCREST 2ND ADD  
 (F/K/A SOUTH KYSER EST 2ND ADD) BEG AT  
 NW COR OF SD LOT TH NE'LY 155.3 FT TO  
 W MAR OF TODD DR TH S'LY ALG SD ROW  
 MAR 51 FT TH SW'LY 155.3 FT TH N 51 FT  
 TO POB

**EXEMPT CODE**  
**TAX DISTRICT** MADISON



Tax Information

TAXES WERE DUE ON 10/1/2022

PPIN	YEAR	TAX TYPE	TAX DUE	PAID	BALANCE
548237	2022	REAL	\$ 211.48	\$ 0.00	\$ 211.48

**Total Due: \$ 211.48**

LAST PAYMENT DATE \*\*N/A\*\*  
PAID BY

Property Values

**Total Acres** 0.18  
**Use Value** \$0  
**Land Value** \$12,900  
**Improvement Value** \$0  
**Total Appraised Value** \$12,900  
**Total Taxable Value** \$12,900  
**Assessment Value** \$2,580

Subdivision Information

**Code** 143  
**Name** FIELDCREST 2ND ADD  
 (FORMERLY KNOWN AS S  
 KYSRER EST 2ND ADD)  
**Lot** PRT8  
**Block** 1  
**Type / Book / Page** DEED / 2017 / 348460  
**S/T/R** 17-4S-2W

### Detail Information

<b>TYPE</b>	<b>REF</b>	<b>DESCRIPTION</b>	<b>LAND USE</b>	<b>TC</b>	<b>HS</b>	<b>PN</b>	<b>APPRAISED VALUE</b>
LAND	1	0.181 Acres	9130-VACANT RESIDENTIAL LOT (SUBDIVISON)	2	N	N	\$12,900

### Building Components

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**RESOLUTION NO. 2023-175-R**

**A RESOLUTION AUTHORIZING ACCEPTANCE OF A  
RIGHT OF WAY EASEMENT FOR A PORTION OF WISE STREET**

**WHEREAS**, the Co-Trustees of the Residuary Trust created by the Last Will and Testament of George Walton Hughes (“the Trust”) desire to allow the City of Madison to have a public right-of-way on land owned by the Trust on Wise Street in downtown Madison;

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

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

ALL THAT PART OF THE WEST HALF OF SECTION 16, TOWNSHIP 4 SOUTH, RANGE 2 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY, ALABAMA. PARTICULARLY DESCRIBED AS COMMENCING AT THE CENTER OF THE WEST BOUNDARY OF SAID SECTION 16; THENCE SOUTH 44 DEGREES 00 MINUTES 57 SECONDS EAST 17.;70 FEET TO THE POINT OF INTERSECTION OF THE EAST RIGHT OF WAY MARGIN OF SULLIVAN STREET WITH THE NORTH RIGHT OF WAY MARGIN OF MARTIN STREET; THENCE ALONG THE NORTH RIGHT OF WAY MARGIN OF SAID MARTIN STREET, NORTH 70 DEGREES 48 MINUTES 43 SECONDS EAST 312.21 FEET; THENCE NORTH 70 DEGREES 53 MINUTES 39 SECONDS EAST 328.83 FEET TO THE POINT OF BEGINNING; SAID POINT IS FURTHER DESCRIBED AS BEING THE SOUTHWEST CORNER OF A TRACT OF LAND CONVEYED TO THE GEORGE WALTON HUGHES RESIDUARY TRUST AS DESCRIBED IN DEED BOOK 574, PAGE 355 IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA.

THENCE FROM THE POINT OF BEGINNING AND ALONG THE WESTERLY BOUNDARY LINE OF SAID TRACT, NORTH 18 DEGREES 35 MINUTES 26 SECONDS WEST 198.09 FEET TO THE SOUTH RIGHT OF WAY MARGIN OF MAIN STREET; THENCE ALONG THE NORTH RIGHT OF WAY MARGIN OF SAID MAIN STREET, NORTH 70 DEGREES 50 MINUTES 45 SECONDS EAST 14.00 FEET; THENCE LEAVING SAID STREET AND ALONG THE PROPOSED EAST RIGHT OF WAY MARGIN OF WISE STREET, SOUTH 19 DEGREES 00 MINUTES 43 SECONDS EAST 174.23 FEET TO THE POINT OF CURVE; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 23.77 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 64 DEGREES 03 MINUTES 32

SECONDS EAST 33.58 FEET TO THE NORTH RIGHT OF WAY MARGIN OF SAID MARTIN STREET; THENCE ALONG THE NORTH RIGHT OF WAY MARGIN OF SAID MARTIN STREET, SOUTH 70 DEGREES 53 MINUTES 30 SECONDS WEST 39.23 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.07 ACRE OF 3,039 SQUARE FEET, MORE OR LESS.

- 2. That the property subject to the public right-of-way easement is further described in a map attached as *Exhibit A*.
- 3. That the obtainment of the foregoing Tracts is necessary and in the best interests of the citizens of the City of Madison in that the same will contribute to the health, safety, and general welfare of the citizens of Madison.
- 4. That the City shall hereby accept the dedication of said permanent public right-of-way easement.
- 5. That the Mayor of the City of Madison is authorized to execute all documents necessary to acquiring the donation and acquisition of the public right-of-way easement.

**READ, PASSED, AND ADOPTED** at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 22nd day of May 2023.

\_\_\_\_\_  
*Ranae Bartlett, Council President*  
City of Madison, Alabama

**ATTEST:**

\_\_\_\_\_  
*Lisa Thomas, City Clerk-Treasurer*  
City of Madison, Alabama

**APPROVED** this \_\_\_\_\_ day of May 2023.

\_\_\_\_\_  
*Paul Finley, Mayor*  
City of Madison, Alabama

STATE OF ALABAMA        )       PUBLIC EASEMENT  
COUNTY OF MADISON    )

KNOW ALL MEN BY THESE PRESENTS: That **GEORGE WALTON ANDERSON, a married man, and LAWRENCE A. ANDERSON, a single man, as the sole heirs of the ESTATE OF MARION KATHRYN HUGHES ANDERSON (Probate Case No. 57076); and George Walton Anderson and Lawrence A. Anderson as Co-Trustees of the RESIDUARY TRUST CREATED BY THE LAST WILL AND TESTAMENT OF GEORGE WALTON HUGHES,** as the Grantors (hereinafter referred to as "Grantors"), for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration to it in hand paid, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell, and convey unto the **CITY OF MADISON, an Alabama municipal corporation,** (hereinafter referred to as "Grantee"), and unto its successors and assigns, a perpetual and permanent public right-of-way easement through, over, and under the following described lands of Grantor, said easement being located in Madison County, Alabama, and being more particularly described as follows:

ALL THAT PART OF THE WEST HALF OF SECTION 16, TOWNSHIP 4 SOUTH, RANGE 2 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY, ALABAMA. PARTICULARLY DESCRIBED AS COMMENCING AT THE CENTER OF THE WEST BOUNDARY OF SAID SECTION 16; THENCE SOUTH 44 DEGREES 00 MINUTES 57 SECONDS EAST 17.;70 FEET TO THE POINT OF INTERSECTION OF THE EAST RIGHT OF WAY MARGIN OF SULLIVAN STREET WITH THE NORTH RIGHT OF WAY MARGIN OF MARTIN STREET; THENCE ALONG THE NORTH RIGHT OF WAY MARGIN OF SAID MARTIN STREET, NORTH 70 DEGREES 48 MINUTES 43 SECONDS EAST 312.21 FEET; THENCE NORTH 70 DEGREES 53 MINUTES 39 SECONDS EAST 328.83 FEET TO THE POINT OF BEGINNING; SAID POINT IS FURTHER DESCRIBED AS BEING THE SOUTHWEST CORNER OF A TRACT OF LAND CONVEYED TO THE GEORGE WALTON HUGHES RESIDUARY TRUST AS DESCRIBED IN DEED BOOK 574, PAGE 355 IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA.

THENCE FROM THE POINT OF BEGINNING AND ALONG THE WESTERLY BOUNDARY LINE OF SAID TRACT, NORTH 18 DEGREES 35 MINUTES 26 SECONDS WEST 198.09 FEET TO THE SOUTH RIGHT OF WAY MARGIN OF MAIN STREET; THENCE ALONG THE NORTH RIGHT OF WAY MARGIN OF SAID MAIN STREET, NORTH 70 DEGREES 50 MINUTES 45 SECONDS EAST 14.00 FEET; THENCE LEAVING SAID STREET AND ALONG THE PROPOSED EAST RIGHT OF WAY MARGIN OF WISE STREET, SOUTH 19 DEGREES 00 MINUTES 43 SECONDS EAST 174.23 FEET TO THE POINT OF CURVE; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 23.77 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 64 DEGREES 03 MINUTES 32 SECONDS EAST 33.58 FEET TO THE NORTH RIGHT OF WAY MARGIN OF SAID MARTIN STREET; THENCE ALONG THE NORTH RIGHT OF WAY MARGIN OF SAID MARTIN STREET, SOUTH 70 DEGREES 53 MINUTES 30 SECONDS WEST 39.23 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.07 ACRE OF 3,039 SQUARE FEET, MORE OR LESS.

TO HAVE AND TO HOLD the same unto Grantee, and unto its successors and assigns forever together with the right of entry and re-entry from time to time as occasion may require for the use of the right of way easement hereinabove described, and together with the right to use the right of way and enjoy the full extent of the right of way easement hereinabove described.

IN WITNESS WHEREOF, the said Grantor has hereunto set its hand and affixed its seal on this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

By: \_\_\_\_\_  
**GEORGE WALTON ANDERSON**, Trustee  
of the Residuary Trust created by the Last Will  
and Testament of George Walton Hughes

STATE OF ALABAMA )

COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public in and for the above County, in said State, hereby certify that **GEORGE WALTON ANDERSON**, whose name as Trustee of the Residuary Trust created by the Last Will and Testament of George Walton Hughes, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, he executed the same voluntarily as of the day of the same bears date.

Given under my hand and seal, this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

By: \_\_\_\_\_  
**LAWRENCE A. ANDERSON**, also known as  
Larry Anderson, Trustee of the Residuary Trust  
created by the Last Will and Testament of  
George Walton Hughes

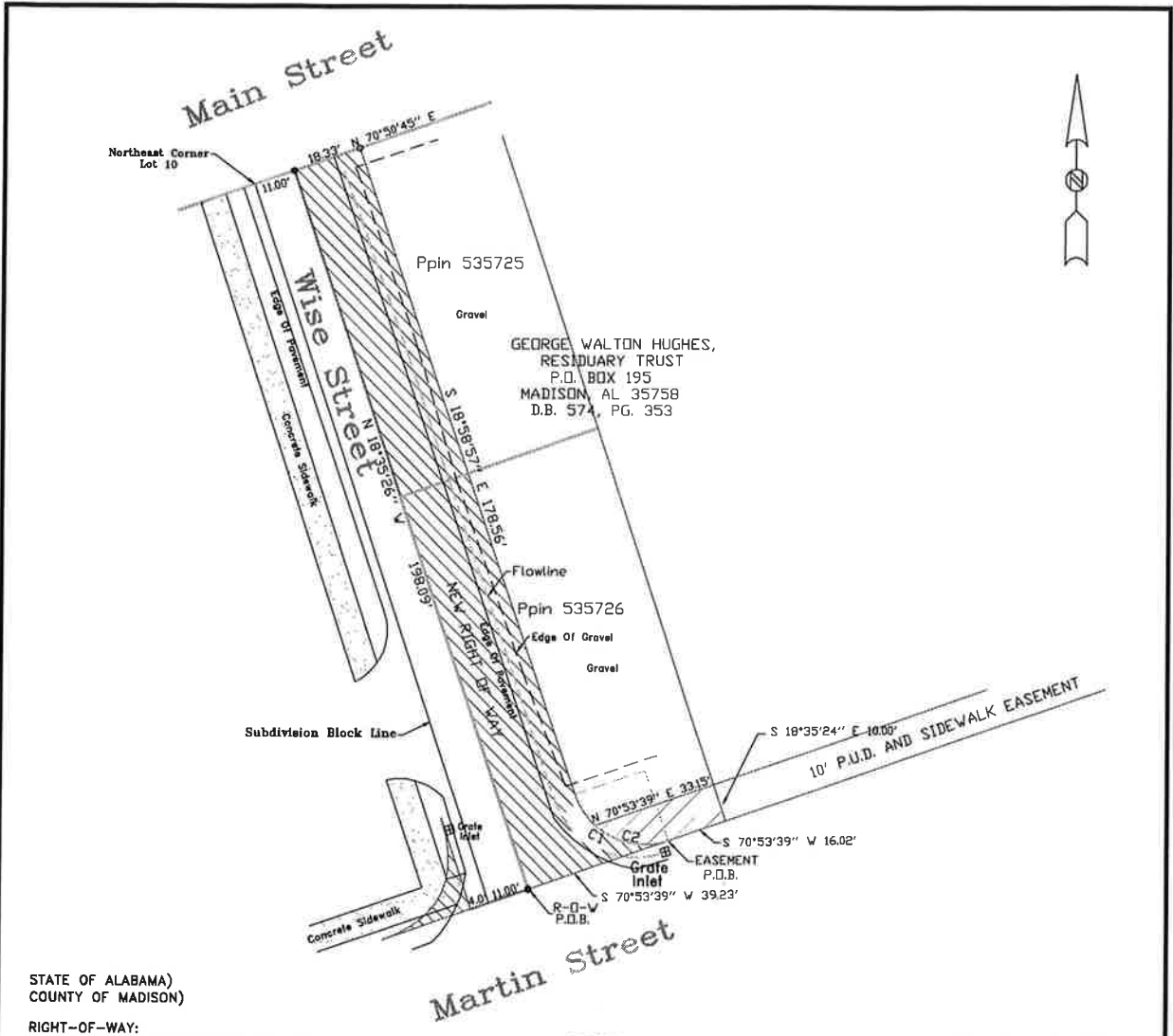
STATE OF ALABAMA )

COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public in and for the above County, in said State, hereby certify that **LAWRENCE A. ANDERSON**, also known as Larry Anderson, whose name as Trustee of the Residuary Trust created by the Last Will and Testament of George Walton Hughes, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, he executed the same voluntarily as of the day of the same bears date.

Given under my hand and seal, this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_



STATE OF ALABAMA)  
COUNTY OF MADISON)

**RIGHT-OF-WAY:**  
ALL THAT PART OF THE WEST HALF OF SECTION 16, TOWNSHIP 4 SOUTH, RANGE 2 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY, ALABAMA, PARTICULARLY DESCRIBED AS COMMENCING AT THE CENTER OF THE WEST BOUNDARY OF SAID SECTION 16; THENCE SOUTH 44 DEGREES 00 MINUTES 57 SECONDS EAST 17.70 FEET TO THE POINT OF INTERSECTION OF THE EAST RIGHT OF WAY MARGIN OF SULLIVAN STREET WITH THE NORTH RIGHT OF WAY MARGIN OF MARTIN STREET; THENCE ALONG THE NORTH RIGHT OF WAY MARGIN OF SAID MARTIN STREET, NORTH 70 DEGREES 48 MINUTES 43 SECONDS EAST 312.21 FEET; THENCE NORTH 70 DEGREES 53 MINUTES 39 SECONDS EAST 328.83 FEET TO THE POINT OF BEGINNING; SAID POINT IS FURTHER DESCRIBED AS BEING THE SOUTHWEST CORNER OF A TRACT OF LAND CONVEYED TO THE GEORGE WALTON HUGHES RESIDUARY TRUST AS DESCRIBED IN DEED BOOK 574, PAGE 355 IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA.

THENCE FROM THE POINT OF BEGINNING AND ALONG THE WESTERLY BOUNDARY LINE OF SAID TRACT, NORTH 18 DEGREES 35 MINUTES 26 SECONDS WEST 198.09 FEET TO THE SOUTH RIGHT OF WAY MARGIN OF MAIN STREET; THENCE ALONG THE NORTH RIGHT OF WAY MARGIN OF SAID MAIN STREET, NORTH 70 DEGREES 50 MINUTES 45 SECONDS EAST 18.33 FEET; THENCE LEAVING SAID STREET AND ALONG THE PROPOSED EAST RIGHT OF WAY MARGIN OF WISE STREET, SOUTH 18 DEGREES 58 MINUTES 57 SECONDS EAST 178.56 FEET TO THE POINT OF CURVE; THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 19.50 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 64 DEGREES 02 MINUTES 39 SECONDS EAST 27.81 FEET TO THE NORTH RIGHT OF WAY MARGIN OF SAID MARTIN STREET; THENCE ALONG THE NORTH RIGHT OF WAY MARGIN OF SAID MARTIN STREET, SOUTH 70 DEGREES 53 MINUTES 39 SECONDS WEST 39.23 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.09 ACRE OR 3,846.7 SQUARE FEET, MORE OR LESS.

**EASEMENT:**  
ALL THAT PART OF THE WEST HALF OF SECTION 16, TOWNSHIP 4 SOUTH, RANGE 2 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY, ALABAMA, PARTICULARLY DESCRIBED AS COMMENCING AT THE CENTER OF THE WEST BOUNDARY OF SAID SECTION 16; THENCE SOUTH 44 DEGREES 00 MINUTES 57 SECONDS EAST 17.70 FEET TO THE POINT OF INTERSECTION OF THE EAST RIGHT OF WAY MARGIN OF SULLIVAN STREET WITH THE NORTH RIGHT OF WAY MARGIN OF MARTIN STREET; THENCE ALONG THE NORTH RIGHT OF WAY MARGIN OF SAID MARTIN STREET, NORTH 70 DEGREES 48 MINUTES 43 SECONDS EAST 312.21 FEET; THENCE NORTH 70 DEGREES 53 MINUTES 39 SECONDS EAST 368.06 FEET TO THE POINT OF BEGINNING; THENCE FROM THE POINT OF BEGINNING, AROUND A CURVE TO THE RIGHT, HAVING A RADIUS OF 19.50 FEET, A CHORD BEARING AND DISTANCE OF NORTH 78 DEGREES 41 MINUTES 06 SECONDS WEST 19.75 FEET; THENCE NORTH 70 DEGREES 53 MINUTES 39 SECONDS EAST 33.15 FEET; THENCE SOUTH 18 DEGREES 35 MINUTES 24 SECONDS EAST 10.00 FEET TO THE NORTH RIGHT OF WAY MARGIN OF SAID MARTIN STREET; THENCE ALONG SAID MARGIN, SOUTH 70 DEGREES 53 MINUTES 39 SECONDS WEST 16.02 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.006 ACRE OR 281.7 SQUARE FEET, MORE OR LESS.

**CURVE DATA**

NUMBER	Delta	Tangent	Radius	Length	Chord	Ch. Bearing
C1	90°06'44"	19.54	19.50	30.69	27.61	S 64°02'39" E
C2	60°49'49"	11.45	19.50	20.71	19.75	N 78°41'06" W

SPECIAL PURPOSE SURVEY FOR:

CITY OF MADISON  
ALABAMA

PPIN 535725, 535726  
GEORGE WALTON HUGHES, RESIDUARY TRUST  
P.O. BOX 195  
MADISON, AL 35758



PROPERTY OWNER: DRAKE	DRAWN BY: J.L.M.
SCALE: 1" = 30'	APPROVED BY: J.L.M.
DATE: 10/18/10	REVISED: 01/17/14
FIELD WORK COMPLETED: 08/07/10	DRAWING NUMBER: 10-410-4

**McELROY**  
LAND SURVEYING CO., INC.  
2227 DRAKE AVE., BLDG. 10-D  
HUNTSVILLE, ALABAMA 35805  
PHONE: (256) 881-4004 FAX: (256) 881-4007

NOT VALID UNLESS STAMPED IN RED INK

**ORDINANCE NO. 2023-188**

**AN ORDINANCE TO AMEND THE ORDER OF BUSINESS ESTABLISHED BY CITY CODE SECTION 2-42(4) FOR CITY COUNCIL MEETINGS**

**WHEREAS**, after a temporary period whereby the City Council reordered its meetings to hear public comments on matters not listed on the City Council’s Agenda until the end of its meeting, the City Council has determined that such reordering of public comments has increased the efficiency of its meetings; and

**WHEREAS**, the City Council has determined that such reordering of public comments has increased the amount of time for the public to comment during its meetings; and

**WHEREAS**, pursuant Section 2-42(4) of the City Code stating “[t]he council president may adjust the format from time to time, as deemed necessary, to provide for the orderly conduct of business” the Council does so deem it necessary to move all public comments regarding items not listed on an Agenda to the end of the City Council’s meeting on a permanent basis.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADISON, ALABAMA**, that Section 2-42(4) subsections a. through k. are repealed and replaced with the following subsections a. through k.:

- “a. Call to Order.
- b. Invocation and Pledge of Allegiance.
- c. Roll call of elected governing officials.
- d. Approval of minutes.
- e. Presentation of awards.
- f. Public comments regarding Agenda Items.
- g. Consent agenda and finance committee report (regular and periodic bills to be paid).
- h. Presentation of reports of mayor, councilmembers, committees, etc.
- i. Departmental reports.
- j. Other business and announcements.



- k. Public Comments not regarding Agenda Items.
- l. Adjournment.”

**BE IT FURTHER ORDAINED** that the City Council reaffirms its commitment to enforcement of these rules of order, as amended, and authorizes and directs the Council President to enforce the same; and

**BE IT FURTHER ORDAINED** that if any word, clause, phrase, sentence, paragraph, or provision of this Ordinance shall be invalidated by a court of competent jurisdiction, such invalidity shall not affect any other word, clause, phrase, sentence, paragraph, or provision hereof; and

**READ and ADOPTED this 12<sup>th</sup> day of June 2023.**

---

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

**ATTEST:**

---

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

**APPROVED this \_\_\_\_ day of June, 2023.**

---

*Paul Finley, Mayor*  
**City of Madison, Alabama**

**ORDINANCE NO. 2023-157**

**AN ORDINANCE FOR THE VACATION OF UTILITY AND DRAINAGE EASEMENT  
LOCATED WITHIN THE BELLAWOODS 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 Diltina Development Corporation, requesting the vacation of utility and drainage easement located within Tract 2 of Bellawoods, Phase 1 and further described as follows:

STATE OF ALABAMA )  
LIMESTONE COUNTY )

**PUDE EASEMENT TO BE VACATED**

PART OF A 15' PUBLIC UTILITY AND DRAINAGE EASEMENT ON TRACT 2 OF THE FINAL PLAT OF BELLAWOODS - PHASE 1 AS RECORDED IN PLAT BOOK K PAGE 214-216, IN THE OFFICE OF THE JUDGE OF PROBATE OF LIMESTONE COUNTY, ALABAMA AND LOCATED IN SECTION 35, TOWNSHIP 3 SOUTH, RANGE 3 WEST OF LIMESTONE COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF TRACT 2 OF THE SAID PLAT, LOCATED ON THE NORTH RIGHT OF-WAY OF HUNTSVILLE BROWNSFERRY ROAD, THENCE NORTH 01 DEGREE 12 MINUTES 18 SECONDS EAST FOR A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING;

THENCE, FROM THE POINT OF BEGINNING, THENCE ALONG A CURVE TO THE RIGHT, HAVING A DELTA ANGLE OF 89 DEGREES 59 MINUTES 57 SECONDS, HAVING A RADIUS OF 15.00 FEET, HAVING A CHORD BEARING OF NORTH 43 DEGREES 48 MINUTES 19 SECONDS WEST FOR A DISTANCE OF 23.56 FEET TO A POINT; THENCE NORTH 01 DEGREE 11 MINUTES 42 SECONDS EAST, 5.71 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT, HAVING A DELTA ANGLE OF 05 DEGREES 09 MINUTES 40 SECONDS, HAVING A RADIUS OF 180.00 FEET, HAVING A CHORD BEARING OF NORTH 01 DEGREES 23 MINUTES 08 SECONDS WEST FOR A DISTANCE OF 16.21 FEET TO A POINT; THENCE NORTH 86 DEGREES 02 MINUTES 02 SECONDS EAST, 10.00 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT, HAVING A DELTA ANGLE OF 05 DEGREES 09 MINUTES 40 SECONDS, HAVING A RADIUS OF 190.00 FEET, HAVING A CHORD BEARING OF SOUTH 01 DEGREE 23 MINUTES 08 SECONDS EAST FOR A DISTANCE OF 17.11 FEET TO A POINT; THENCE SOUTH 01 DEGREE 11 MINUTES 42 SECONDS WEST, 10.71 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT, HAVING A DELTA ANGLE OF 89 DEGREES 59 MINUTES 25 SECONDS, HAVING A RADIUS OF 10.00 FEET, HAVING A CHORD BEARING OF SOUTH 43 DEGREES 48 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 14.14 FEET TO A POINT OF BEGINNING;

CONTAINING 0.01 ACRES (347 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 easement in favor of **Diltina Development Corporation**, and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same.

**READ, PASSED, AND ADOPTED** this \_\_\_\_ day of May 2023.

\_\_\_\_\_  
*Ranae Bartlett, Council President*  
**City of Madison, Alabama**

**ATTEST:**

\_\_\_\_\_  
*Lisa Thomas, City Clerk-Treasurer*  
**City of Madison, Alabama**

**APPROVED** this \_\_\_\_ day of May 2023.

\_\_\_\_\_  
*Paul Finley, Mayor*  
**City of Madison, Alabama**

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

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

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

STATE OF ALABAMA )  
 LIMESTONE COUNTY )

PUDE EASEMENT TO BE VACATED

PART OF A 15' PUBLIC UTILITY AND DRAINAGE EASEMENT ON TRACT 2 OF THE FINAL PLAT OF BELLAWOODS - PHASE 1 AS RECORDED IN PLAT BOOK K PAGE 214-216, IN THE OFFICE OF THE JUDGE OF PROBATE OF LIMESTONE COUNTY, ALABAMA AND LOCATED IN SECTION 35, TOWNSHIP 3 SOUTH, RANGE 3 WEST OF LIMESTONE COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF TRACT 2 OF THE SAID PLAT, LOCATED ON THE NORTH RIGHT OF-WAY OF HUNTSVILLE BROWNSFERRY ROAD, THENCE NORTH 01 DEGREE 12 MINUTES 18 SECONDS EAST FOR A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING;

THENCE, FROM THE POINT OF BEGINNING, THENCE ALONG A CURVE TO THE RIGHT, HAVING A DELTA ANGLE OF 89 DEGREES 59 MINUTES 57 SECONDS, HAVING A RADIUS OF 15.00 FEET, HAVING A CHORD BEARING OF NORTH 43 DEGREES 48 MINUTES 19 SECONDS WEST FOR A DISTANCE OF 23.56 FEET TO A POINT; THENCE NORTH 01 DEGREE 11 MINUTES 42 SECONDS EAST, 5.71 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT, HAVING A DELTA ANGLE OF 05 DEGREES 09 MINUTES 40 SECONDS, HAVING A RADIUS OF 180.00 FEET, HAVING A CHORD BEARING OF NORTH 01 DEGREES 23 MINUTES 08 SECONDS WEST FOR A DISTANCE OF 16.21 FEET TO A POINT; THENCE NORTH 86 DEGREES 02 MINUTES 02 SECONDS EAST, 10.00 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT, HAVING A DELTA ANGLE OF 05 DEGREES 09 MINUTES 40 SECONDS, HAVING A RADIUS OF 190.00 FEET, HAVING A CHORD BEARING OF SOUTH 01 DEGREE 23 MINUTES 08 SECONDS EAST FOR A DISTANCE OF 17.11 FEET TO A POINT; THENCE SOUTH 01 DEGREE 11 MINUTES 42 SECONDS WEST, 10.71 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT, HAVING A DELTA ANGLE OF 89 DEGREES 59 MINUTES 25 SECONDS, HAVING A RADIUS OF 10.00 FEET, HAVING A CHORD BEARING OF SOUTH 43 DEGREES 48 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 14.14 FEET TO A POINT OF BEGINNING;

CONTAINING 0.01 ACRES (347 SQUARE FEET) MORE OR LESS.

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

*Quitclaim Deed  
 Bellawoods, U&D VOE  
 Page 1 of 2*

**IN WITNESS WHEREOF**, the City of Madison, Alabama, a municipal corporation, has hereunto set its hand and seal this \_\_\_\_ day of May, 2023.

City of Madison, Alabama,  
a municipal corporation

Attest:

By: \_\_\_\_\_  
Paul Finley, Mayor  
City of Madison, Alabama

\_\_\_\_\_  
Lisa Thomas  
City Clerk-Treasurer

**STATE OF ALABAMA**                   §  
  §  
**COUNTY OF MADISON**           §

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

Given under my hand this the \_\_\_\_ day of May 2023.

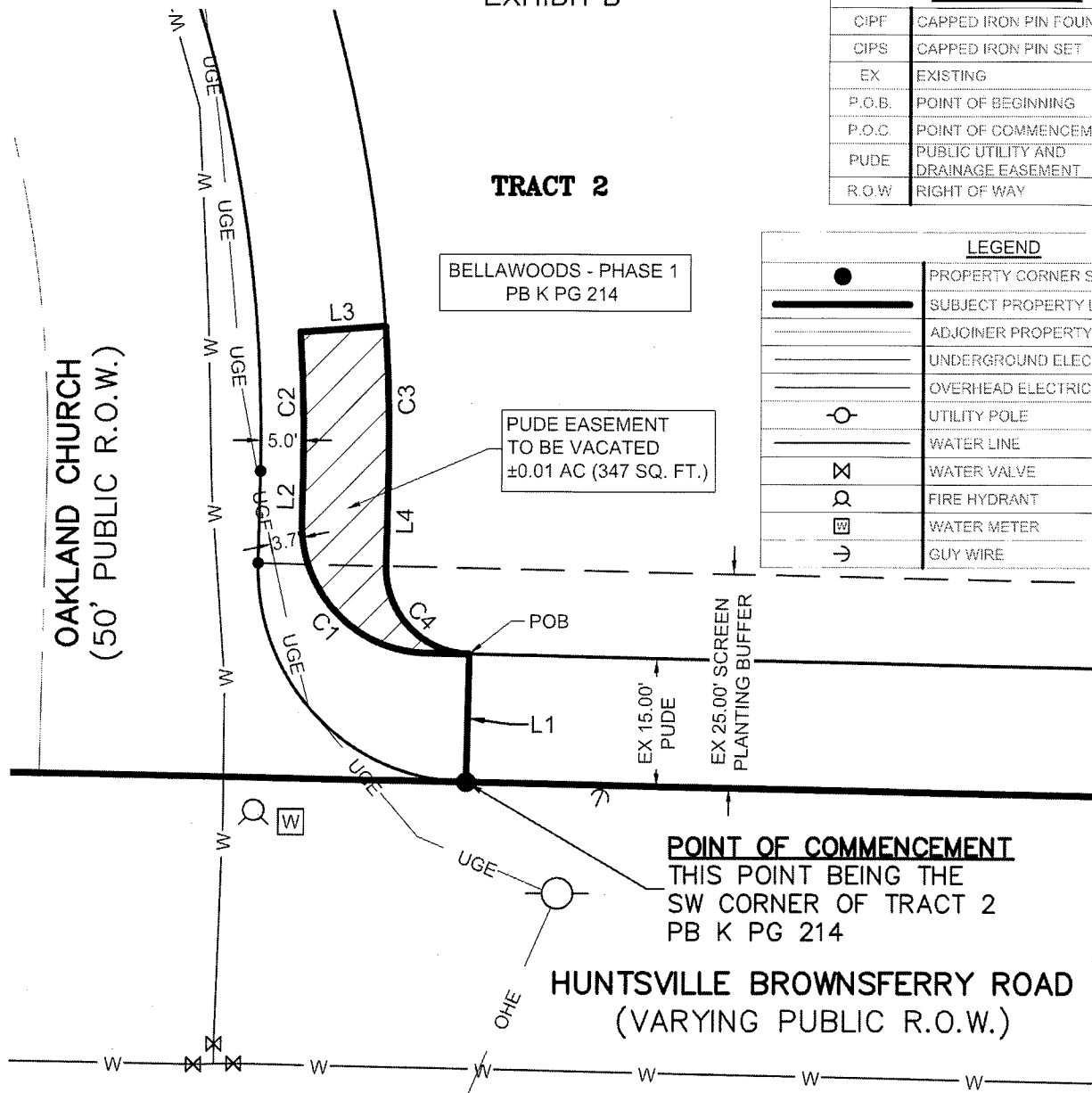
\_\_\_\_\_  
Notary Public

EXHIBIT B

ABBREVIATIONS	
CIPF	CAPPED IRON PIN FOUND
CIPS	CAPPED IRON PIN SET
EX	EXISTING
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
PUDE	PUBLIC UTILITY AND DRAINAGE EASEMENT
R.O.W.	RIGHT OF WAY

TRACT 2

LEGEND	
	PROPERTY CORNER SET (PLS 35345)
	SUBJECT PROPERTY LINE
	ADJOINER PROPERTY LINE
	UNDERGROUND ELECTRIC LINE
	OVERHEAD ELECTRIC LINE
	UTILITY POLE
	WATER LINE
	WATER VALVE
	FIRE HYDRANT
	WATER METER
	GUY WIRE



BELLAWOODS - PHASE 1  
PB K PG 214

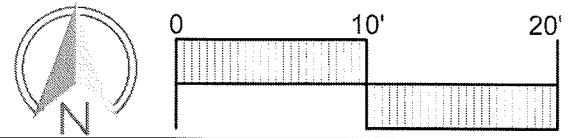
PUDE EASEMENT  
TO BE VACATED  
±0.01 AC (347 SQ. FT.)

**POINT OF COMMENCEMENT**  
THIS POINT BEING THE  
SW CORNER OF TRACT 2  
PB K PG 214

HUNTSVILLE BROWNSFERRY ROAD  
(VARYING PUBLIC R.O.W.)

LINE TABLE		
NUMBER	LENGTH	DIRECTION
L1	15.00'	N 1°12'18" E
L2	5.71'	N 1°11'42" E
L3	10.00'	N 86°02'02" E
L4	10.71'	S 1°11'42" W

CURVE TABLE					
NUMBER	LENGTH	RADIUS	DELTA	CHORD	CHORD DIRECTION
C1	23.56'	15.00'	89°59'57"	21.21'	N 43°48'19" W
C2	16.21'	180.00'	5°09'40"	16.21'	N 1°23'08" W
C3	17.12'	190.00'	5°09'40"	17.11'	S 1°23'08" E
C4	15.71'	10.00'	89°59'25"	14.14'	S 43°48'00" E



DRAWN BY: ANB/JCB  
FIELD CREW: ZJ  
FIELD DATE: 02/24/23  
OFFICE DATE: 03/15/23  
CHECKED BY: ASM  
SHEET: 2 OF 2  
JOB NO: S19-006

EASEMENT VACATION EXHIBIT  
**BELLAWOODS PHASE 1**  
**TRACT 2**  
CITY OF MADISON, LIMESTONE COUNTY, ALABAMA  
SECTION 35, TOWNSHIP 3 SOUTH, RANGE 3 WEST

**RESOLUTION NO. 2023-158-R**

**A RESOLUTION AUTHORIZING AGREEMENT WITH  
SLAUGHTER & ASSOCIATES, PLLC**

**BE IT HEREBY RESOLVED** by the City Council of the City of Madison, Alabama, that the Mayor is authorized and directed to execute an Agreement with Slaughter & Associates, PLLC, for professional services for the redistricting of election districts, said Agreement to be substantially similar in purpose, intent, and composition to that certain document attached hereto and identified as "Letter of Agreement," and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same; and

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

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

**READ, PASSED, AND ADOPTED** at a regularly scheduled meeting of the City Council of the City of Madison, Alabama, on this 22<sup>nd</sup> day of May 2023.

\_\_\_\_\_  
*Ranae Bartlett, City Council President*  
City of Madison, Alabama

**ATTEST:**

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

**APPROVED** this 22<sup>nd</sup> day of May 2023.

\_\_\_\_\_  
*Paul Finley, Mayor*  
City of Madison, Alabama

**LETTER OF AGREEMENT FOR  
PLANNING AND CONSULTING SERVICES**

THIS AGREEMENT is entered into by and between **SLAUGHTER & ASSOCIATES, PLLC**, hereinafter called the **CONSULTANT** and **THE CITY OF MADISON, ALABAMA**, hereinafter called the **CITY**.

1. The CITY does hereby employ the CONSULTANT to perform professional and technical services for REDISTRICTING OF ELECTIONS DISTRICTS:
  - Preparation of plan (prepare up to two (2) alternate plans);
  - Public input, (public meeting regarding presentation of plan);
  - Public hearing and plan presentation
  - Prepare legal descriptions of new election districts;
  - Includes three (3) trips to the CITY by representatives of Slaughter and Associates, PLLC
  
2. The CONSULTANT hereby agrees to perform the above services in a diligent and competent manner in accordance with the standards applicable to this work, which should take approximately eight to ten weeks to complete, depending on how well the process proceeds.
  
3. The CITY shall compensate the CONSULTANT for professional services rendered (estimated to range from \$12,000 to \$15,000) plus direct reimbursement for out-of-pocket expenses including purchased information and services, copies, graphic materials, travel and other necessary expenses (not to exceed \$15,000 without prior approval of the city council).
  
4. The CONSULTANT will submit monthly or periodic invoices to the CITY requesting payment. Such requests will be based upon the amount and value of work and services performed by the CONSULTANT and will be accompanied by an itemized statement of work performed. The CITY shall pay the CONSULTANT the total amount of the invoice within thirty (30) days after receipt of the invoice. Nonpayment or payment less than the amount of the invoice within the specified time shall be cause for suspension of work by the CONSULTANT. The invoices will be based on the following rate schedule:

Principal Planner:	\$200.00/hr.
Associate Planner I:	\$150.00/hr.
Associate Planner II:	\$125.00/hr.
Assistant Planner I:	\$100.00/hr.
Assistant Planner II:	\$ 75.00/hr.
Planning/GIS Technician:	\$ 60.00/hr.
Office Technician:	\$ 50.00/hr.

5. The CITY may terminate or re-negotiate this letter of agreement at any time with written notification to the CONSULTANT.
  
6. Any reports, information, data, memoranda, or documents in any form, electronic or otherwise, prepared or assembled by the CONSULTANT under this agreement shall be the property of the CITY, even if remaining with the CONSULTANT, and the CONSULTANT shall maintain confidential all of such information unless specifically authorized in writing by the CITY through its Mayor or Attorney.

IN WITNESS WHEREOF the CITY and the CONSULTANT have executed this Agreement this the \_\_\_\_ day of \_\_\_\_\_, 2023.

**CLIENT: THE CITY OF MADISON, ALABAMA**

BY: Paul Finley, Mayor                      WITNESS: Lisa Thomas, City Clerk

**CONSULTANT: SLAUGHTER & ASSOCIATES, PLLC**

BY: Mike Slaughter, P.E., AICP                      WITNESS: Nathan Willingham, AICP



**RESOLUTION NO. 2023-187-R****RESOLUTION TO AUTHORIZE AGREEMENT WITH HOGAN'S  
MECHANICAL SERVICES, LLC FOR DUBLIN PARK SOCCER  
FIELD # 5 LIGHTING INSTALLATION**

**WHEREAS**, in accordance with Alabama's Public Works Competitive Bid Law set forth in Title 39 of the *Code of Alabama*, the City of Madison, Alabama, by proper notice, solicited bids for the Dublin Park Soccer Field #5 Lighting Installation Project (hereinafter, cumulatively, "Project"); and

**WHEREAS**, as of the advertised date to open such bids of April 5, 2023, despite proper notice to the public, no bids were submitted to the City for the Project; and

**WHEREAS**, Alabama Code Section 39-2-6 provides that if no bids are received in this manner, the City may negotiate through informal bids not subject to any requirement of the Public Works Competitive Bid Statute; and

**WHEREAS**, after April 5, 2023, the Director of Recreation proceeded to negotiate directly with companies that could complete the Project; and

**WHEREAS**, the Director of Recreation has since determined that Hogan's Mechanical Services, LLC possess the expertise and staffing to complete the Project.

**BE IT HEREBY RESOLVED** by the City Council of the City of Madison, Alabama, that the Mayor is authorized and directed to execute an Agreement with Hogan's Mechanical Services, LLC, for the installation of lighting at the Dublin Park Soccer Field Number 5, said Agreement to be substantially similar in purpose, intent, and composition to that certain document attached hereto and identified as "Contractor Services Agreement," and that the City Clerk-Treasurer is hereby authorized to appropriately attest the same; and

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

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

**READ, PASSED AND ADOPTED** this 22 day of May 2023.

\_\_\_\_\_  
*Ranae Bartlett, City Council President*  
City of Madison, Alabama

**ATTEST:**

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

**APPROVED** this \_\_\_\_ day of May 2023.

\_\_\_\_\_  
*Paul Finley, Mayor*  
City of Madison, Alabama

**AGREEMENT FOR GENERAL CONTRACTING SERVICES**  
**Dublin Soccer Field 5 Lighting Installation**

**THIS AGREEMENT** made and entered into by and between **Hogan's Mechanical Services, LLC** hereinafter "Contractor," and the City of Madison, Alabama, a Municipal Corporation, hereinafter "City" or "Owner."

**W-I-T-N-E-S-S-E-T-H:**

In consideration of the mutual agreements and provisions contained in this Agreement, the Contractor and the City agree in regard to a public works project (hereinafter the "Project") as described herein.

The Contractor shall construct the Project as well as furnish at its own cost and expense all labor, tools, equipment, materials, and transportation as are required to be furnished by the Contractor, and shall perform the work in the manner and form required to construct the Project as it is more specifically described in this Agreement and as provided by the plans, specifications, and documents, all of which are incorporated into this Agreement by reference, and all addenda together with all plans and drawings on file in the City of Madison Legal Department and the City of Madison Parks and Recreation Department.

**ARTICLE I. GENERALLY**

**A. Contract.** As used throughout these documents, the term "Contract" means and includes all of the following documents: any Detail Specifications, Supplemental and Special Conditions (if attached), together with this Agreement and any modifications, including Change Orders, if made, and the drawings, plans, and profiles now on file with the City Attorney and City Representative, as well as all guaranties and sureties posted by Contractor in connection with this Contract and all insurance certificates.

All documents listed in this section are adopted by this reference and constitute a part of this Agreement to the same extent as if each were set out in full.

**B. Independent Contractor.** City and Contractor hereby state that it is the express mutual intent of the parties that an independent contractor relationship be, and hereby is, established under the terms and conditions of this Agreement. Both parties further mutually understand and agree that employees of the Contractor are not, nor shall they be deemed employees of the City and that employees of the City are not, nor shall they be deemed employees of the Contractor. In no event shall the Contractor attempt to commit, promise, or obligate the name or resources of the City in any manner whatsoever.

**C. Order of Precedence.** Where more than one document relates to the same matter, if both can be given reasonable effect both are to be retained. In the event of conflict, the City Representative shall determine which document, term, or specification governs.

**D. Integration; Contract Terms and Construction.**

1. Integration: This Agreement together with all other component documents of the Contract constitute the entirety of the agreement of the parties with respect to its subject matter. All understandings and agreements heretofore had between and among the parties are merged into this Agreement, which alone fully and completely expresses their understandings. No representation, warranty, or covenant

made by any party that is not contained in this Agreement has been relied on by any party in entering into this Agreement.

2. Amendment in Writing: This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement or Change Order, in writing, properly executed by the parties.
3. Binding Effect: This Agreement shall bind the parties and their respective personal representatives, heirs, successors, and assigns.
4. Captions: The captions of this Agreement are for convenience and reference only, are not a part of this Agreement, and in no way define, describe, extend, or limit the scope or intent of this Agreement.
5. Construction: This Agreement shall be construed in its entirety according to its plain meaning and shall not be construed against the party who provided or drafted it.
6. Mandatory and Permissive: "Shall," "will," and "agrees" are mandatory; "may" is permissive.
7. Governing Laws: The laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this Agreement.
8. Ownership of Contract: The Contract, and copies of parts thereof, are furnished and owned by the City. All portions of the Contract are the instruments of service for this Project. They are not to be used on other work and are to be returned to the city on request at the completion of the Project. Any reuse of these materials without specific written verification or adaptation by the City will be at the risk of the user and without liability or legal expense to the City, the City Representative, or the City Attorney. Such user shall hold the City and its employees, agents, and officials harmless from any and all damages, including reasonable attorneys' fees, from any and all claims arising from any such reuse. Any such verification and adoption entitle the City to further compensation at rates comparable to those paid for similar work by licensed professionals.

**E. Rules of Construction.** For the purposes of this Contract, except as otherwise expressly provided or unless the context otherwise requires:

1. Words of masculine, feminine, or neutral gender include the correlative words of other genders. Singular terms include the plural as well as the singular, and vice versa.
2. All references in this Agreement to designated "articles," "sections," and other subdivisions or to lettered appendices are to the designated articles, sections and subdivisions hereof and the appendices attached hereto unless expressly otherwise designated in context. All article, section, and other subdivision and appendix captions are used for reference only and do not limit or describe the scope or intent of, or in any way affect, this agreement.
3. The terms "include," "including," and similar terms are construed as if followed by the phrase, "without being limited to".
4. All recitals set forth in, and all appendices to, this agreement are hereby incorporated into this agreement by reference.

6. No inference in favor of or against any party shall be drawn from the fact that such party or such party's counsel has drafted any portion hereof.
7. All references in this Agreement to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.
8. Each provision of this Agreement shall be considered to be severable and if for any reason any such provision or any part thereof is determined to be invalid and contrary to any existing or future applicable law, such invalidity shall not impair the operation of or affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part thereof had been omitted.

**F. Coordination of Plans, Specifications.** The specifications, plans, drawings, and all supplementary documents are essential parts of the Contract, and requirements occurring in one are as binding as though occurring in all. They are intended to be comprehensive to describe and provide a complete work. Should any portions of the plans, specifications, or drawings be obscure or in dispute, they shall be referred to the City Representative, and he shall decide the true meaning and intent. The City Representative shall also have the right to correct any errors or omissions at any time when such corrections are necessary for the proper fulfillment of said plans and specifications.

**G. Taxes and Charges.** Subject to Contractor's application for and receipt of a Certificate of Sales and Use Tax Exemption from the State of Alabama, Contractor shall withhold and pay all sales and use taxes and all withholding taxes, whether local, state, or federal, and pay all Social Security taxes and also all State Unemployment Compensation taxes, and pay or cause to be withheld, as the case may be, any and all taxes, charges, or fees or sums whatsoever, which are now or may hereafter be required to be paid or withheld under any laws.

**H. Shop Drawings and Submittals.** The Contractor shall submit to the City Representative any requested shop drawings, samples, and submittals depicting or representing the construction of portions of the Project in accordance with the plans and specifications. The Contractor shall pay for, or the cost may be withheld from payments to the Contractor for, no more than two (2) reviews of the shop drawings, samples, submittals, or similar element of work by the City Representative.

**I. Alabama Immigration Law.** By signing this Contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom, to the extent allowed by Federal law. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the City from any and all losses, consequential damages, expenses (including, but not limited to, attorneys' fees and court costs), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Contractor's failure to fulfill its obligations set forth in this section or contained in Ala. Code § 31-13-1 (1975), *et seq.*

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

## **ARTICLE II. PAYMENTS, CLAIMS, CHARGES, ETC.**

**A. Contract Price.** The City will pay, and the Contractor will accept in full consideration for the performance of the Project, the total amount of compensation, subject to additions and deductions as provided in this Agreement will not to exceed **seventy-one thousand five hundred dollars (\$71,500.00)**.

**B. Scope.** The scope of this Agreement shall include the Contractor unloading and installing four (4) owner provided poles, fixtures with controls. The Contractor agrees to then assemble the poles to set at each of the locations shown on the MUSCO plan. The Contractor will also install conduit and wire from control panel to each pole. A 240-volt single phase power source shall be provided. The Contractor will landscape as needed.

Outside of the scope of this agreement, MUSCO will provide a survey to determine if the light levels are meeting plans and determine what, if any, adjustment to the lighting is needed.

**C. Overtime Work by Contractor.** If the Contractor, for his convenience and at his own expense, should desire to carry on his work outside the hours of 7:00am to 5:00pm local time, Monday through Friday, he shall submit written notice to the City Representative and he shall allow ample time for satisfactory arrangements to be made for inspecting the work in progress. At no time shall the notice be given less than twenty-four (24) hours before such overtime work is started. The Contractor must obtain, through the City Representative, the City's approval for work outside the specified hours or on Saturdays, Sundays, or legal holidays. The Contractor shall light the different parts of the Project as required to comply with all applicable federal and state regulations and with all applicable requirements of the City.

In general, the City's Inspectors are subject to being present at all times that the Contractor is working. Therefore, if the Contractor elects to schedule and perform overtime work, the Contractor shall pay the City for the City's Inspector's salary and reimbursable expenses for each hour of overtime incurred by the City's Inspector as a result of Contractor's performance outside the hours set forth above. Overtime shall be rounded up to the nearest whole hour. This amount shall include the Inspector's salary at his overtime rate and the labor additive, which includes insurance, social security, workmen's compensation, sick pay, paid holidays, vacation pay, and his vehicle and equipment. Payment to the City shall be made by an equal deduction from the amount due on a subsequent invoice submitted by Contractor for payment.

**D. Payments to Contractor, Retainage.** City shall make partial payments to Contractor of the billable work performed less payments already made and less deductions for any incomplete, unaccepted, or defective work. In making partial payments to the Contractor, there shall be retained five percent (5%) of the estimated amount of work done and of the estimated value of materials stored on the site or suitably stored and insured off-site. Contractor may apply for payment for work performed by submitting to the City Representative an application for payment showing the status of the Contract sum to date, including the total dollar amount of the Project completed to date; the amount of retainage (if any); the total of previous payments; a summary of Change Orders; and the amount of current payment requested. If properly completed and acceptable to the City Representative, he shall affix his signature and certify to the City that payment in the amount indicated is due to Contractor. However, if, upon inspection of the Work performed, the City Representative finds that the payment requested is not appropriate given the Work completed, the City Representative may certify an amount different than the amount applied for and provide an explanation therefor.

Once fifty percent (50%) of the Project has been satisfactorily completed, no further retainage will be withheld. Retainage shall be held until final completion and acceptance of all Work covered by the Contract unless escrow or deposit arrangements are agreed to by the City. When maintenance periods are included in the Contract covering highways, bridges, or similar structures, such period shall be considered a component part of the Contract and retainage will be held until the expiration of such periods.

At the conclusion of the Project and upon Contractor's completion of the Project, Contractor shall present a verified application for payment. On completion and acceptance of each separately identifiable portion of the Project for which a separate price has been stated in the Contract or which can be separately ascertained, payment may be made in full including retainage but less deductions.

All materials and work covered by partial payments as provided for in this Agreement shall become the sole property of the City, but the Contractor shall maintain the sole responsibility for the care and protection of materials and Work upon which payments have been made and for the restoration of any damaged Work.

The City may also withhold from time to time from payment to the Contractor in such an amount or amounts as may be necessary to pay and fully satisfy all claims and demands for labor and services rendered in and about the Project, including any such amount or amounts due to be paid to or by any subcontractor or supplier, amounts for City's or City Representative's observers or inspectors for Contractor's overtime as provided in this Agreement, or for engineering or design services associated with Contractor-initiated Change Orders or submittals in excess of that permitted in this Agreement. The Contractor hereby authorizes the City, as its limited agent, to apply such amounts so withheld to the payment of any amount so due to be paid and all other just and lawful claims other than claims for damages for tort. In case of disagreement with reference to any such claim or claims, the city may keep such amounts so withheld on account of such claim or claims until such disagreement is finally settled and determined.

In addition, the City may also withhold payment of the whole or any part of a verified or approved application for payment from the Contractor to such an extent as may be necessary to protect itself from loss on account of any of the following causes discovered subsequent to its verification or approvals:

- a. Defective work.
- b. Evidence indicating probable filing of claims by other parties against the Contractor.
- c. Failure of the Contractor or its subcontractor to promptly make payments to subcontractors or for materials, labor, food stuffs, and supplies.
- d. Damage to another contractor under separate contract with the City.
- e. Assessment of liquidated damages.

In the absence of same, applications for payment will be verified by the City Representative and/or approved for amounts not previously verified and approved because of their presence.

At any time during the term of this Contract or any extensions thereof, Contractor shall not attempt to withdraw, without the express written consent of the City, the whole or any part of the amounts so retained by the City from payments due the Contractor by the establishment of an escrow account or by depositing securities in lieu thereof pursuant to *Ala. Code* §39-2-12(e) or (f), or any amendments thereto or any equivalent law, ordinance, or regulation. It is expressly agreed between the parties hereto that should the City elect not to consent to the same, then the Contractor shall not withdraw, attempt to withdraw, or in any manner whatsoever endeavor to withdraw such retained amounts.

**E. Differing Site Conditions.** If, in the performance of the Contract, subsurface or latent conditions are found to be materially different from those indicated by the plans and specifications, or unknown conditions of an unusual nature are disclosed which differ materially from conditions usually inherent in work of the character shown and specified, the Contractor shall immediately notify the City Representative in writing regarding such conditions but in no event later than twenty-four (24) hours after discovery of such conditions by the Contractor.

Upon such notice, or upon observation of such conditions, the City Representative will promptly make such changes in the plans and/or specifications as he finds necessary (if any are necessary) to conform to the different

conditions, and any increase or decrease in the cost of the Project resulting from such changes may be adjusted as provided under Change Orders as set forth in this Agreement.

**F. Change Orders.** The City may approve Change Orders if one or more of the following conditions apply:

1. Changes for matters incidental to the original Contract necessitated by unforeseeable circumstances arising in the course of work under the Contract.
2. Changes due to emergencies.
3. Changes of items not contemplated or foreseen when the plans and specifications were prepared and the Project was advertised, which are in the public interest, and which generally do not exceed ten percent (10%) of the Contract Price.

The Contractor is expected to complete the Project as specified within the financial parameters stated in this Agreement. However, if it shall be determined that a Change Order condition exists during the performance of the Contract, the Contractor shall promptly notify in writing the City Representative and shall not implement such change until having received necessary City approvals. If the change is minor in the opinion of the City Representative and does not involve (1) an increase in the Contract sum; (2) an extension of the Contract time; or (3) a material change in the Contract scope of services, then the City Representative may authorize the change in writing to the Contractor. The Contractor shall not perform such change until receipt of such written Change Order.

In the event the Change Order requested by the Contractor involves (1) an increase in the Contract sum or construction price, (2) extension of the Contract time, or (3) a material change in the Contractor's scope of work or services, then the Contractor shall request a Change Order in writing and present the same to the City Representative and City Attorney who both shall determine whether this is a Change Order which can be allowed and, if so, what exception it would fall under. The City Representative shall then document the same, attach the same to the Contractor's request for a Change Order and submit the same with his recommendation to the City Council at its next or any subsequent regularly scheduled Council meeting for approval.

The City reserves the right to institute Change Orders as the Owner pursuant to the aforesaid terms and conditions.

In no event is a Change Order to be executed by the Contractor prior to approval thereof by the City, except for emergencies.

**G. Construction Schedule and Periodic Estimates.** After execution and delivery of the Contract and before the first partial payment is made, the Contractor shall deliver to the City Representative a construction schedule showing the proposed dates of commencement and completion of each of the various activities; the work required under the Contract; the interrelationship of each activity; sequencing and timing of performance of each portion of the Project; and the anticipated amount of each monthly payment that will become due in accordance with the Construction Schedule. The Contractor shall also furnish a detailed estimate giving a complete breakdown on the Contract price and periodic itemized estimates of the Work done for the purpose of making partial payments. However, the same will not be considered as fixing a basis for additions to or deductions from the Contract price.

### **ARTICLE III. TIME**

**A. Time for Completion.** The Contractor hereby agrees to commence performance of this Contract on the date specified in a written "Notice to Proceed" and to fully complete the Project within ninety days (90) days.



**B. Delay.** Contractor may be entitled to a reasonable extension of time, as determined by the city, in which to complete the Project if he is delayed at any time in the progress of the Work by any of the following causes:

1. Fires, abnormal floods, tornadoes, or other cataclysmic phenomena of nature.
2. Strikes, embargoes, lockouts, war, acts of public enemy.
3. Properly authorized and approved Change Orders.
4. Acts of performance or delays in performance by other contractors employed by the City or their subcontractors.
5. Causes shown by Contractor to be beyond its control.

In the event one of the above-cited circumstances results in Contractor's delay, Contractor shall immediately give notice in writing to the City and follow extension of time procedures as provided for in this Agreement. The City expressly disclaims any liability to Contractor for any cost, expense, or damage caused by other contractors, subcontractors, or suppliers, including those engaged by the City. The City will not be liable for damages or costs to the Contractor sustained due to any interference from utilities or appurtenances or from the operations of relocating the same.

**C. Extensions of Time.** All written requests for extensions of time must be submitted to the City Representative within five (5) calendar days after the occurrence of the cause for delay. The City Representative shall ascertain the facts and the extent of the delay and shall recommend to the City Council whether it should extend the time for completing the Project. Any extension of time shall be in writing and processed as a Change Order.

For Change Orders requesting extensions of time due to rain, wind, flood, or any other natural phenomenon, the Contractor's written request must be accompanied, at the City's request, by a detailed report of weather at this site for the last three (3) years with averages showing means and statistical deviations from mean averages to support request for extension. No extension shall be made for delays due to rain, wind, flood, or any other natural phenomenon of normal intensity for the locality.

In the event any material changes, alterations, or additions are requested and which, in the opinion of the City Representative, will require additional time for execution of any work under the Contract, the time of the completion of the Project may be extended through Change Order. No extensions of time shall be given for any minor changes, alterations, or additions. The Contractor shall not be entitled to any reparation or compensation on account of such additional time or extensions of time, and the City's granting of an extension of time shall not be valid grounds for a claim by the Contractor for damages or for additional costs, expenses, overhead, profit, or other compensation.

**D. Right of the City to Terminate Contract.** Owner may at any time and for any reason terminate Contractor's services and work at Owner's convenience by providing written notice to Contractor of such termination. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, equipment, and supplies in connection with the performance of this Agreement. Upon such termination, Contractor shall be entitled to payment only as follows:

1. the actual cost of the Project completed in conformity with this Agreement; plus
2. such other costs actually incurred by Contractor as are permitted by the prime contract and approved by Owner; plus
3. ten percent (10%) of the cost of the Work referred to in subparagraph (1) above for overhead and profit.

If the Contractor should be adjudged as bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for the Contractor or any of its property, or if it should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or if it should refuse or fail to make prompt payment to persons supplying labor for the Project under the Contract, or persistently disregard instructions of the City Representative or fail to observe or perform any provisions of the Contract, or fail or neglect to promptly prosecute or perform the Project in accordance with the Contract, or otherwise be guilty of a substantial violation of any provision of the Contract, then the City may, without prejudice to any other rights or remedies of the City in the premises, immediately terminate the Contractor's right to proceed with the Project. In such event, the City may take over the Project and prosecute the same to completion, by contract or otherwise, and the Contractor and its sureties shall be liable to the City for any and all excess cost occasioned to the City thereby, including attorney's fees; and in any such case, the City may take possession of and utilize in completing the Project such appliances and plant of the Contractor or its subcontractors as may be on the work site and necessary or useful therefor.

In the event of termination, the same shall not relieve the Contractor or any of its sureties of their obligations pursuant to this Contract.

In the event it becomes necessary for the City to maintain any legal action against the Contractor to enforce its rights under this Agreement, the Contractor shall pay the City's expenses associated therewith, including a reasonable attorney's fee.

**E. Time of the Essence; Liquidated Damages.** The parties hereto mutually understand, agree, and state that, due to the nature of the Project and the damage and inconvenience to the City and its citizens that would be caused by any delay in completion thereof, time is of the essence. The Project contracted hereunder shall be fully completed within ninety (90) days following the execution of this Agreement. Because time is a material element of this Agreement, should the Project not be completed within the time specified, scheduled, or as extended, it is understood and agreed that there may be deducted by the City from the partial and/or final payments to the Contractor, or otherwise charged to the Contractor, a sum computed at the rate of One Hundred Dollars (\$100.00) per day beginning from the stated or extended date of completion and continuing for so long as the Project remains incomplete. The parties agree that potential damages are difficult to determine at the time of execution and that this amount is a reasonable measure thereof.

It is understood and agreed by the parties that the above deduction is not a penalty, but money due to reimburse the City for inconvenience and damage to the general public due to the delay in the completion of the Project and is reasonable. The collection of liquidated damages by the City shall not constitute an election or waiver by the City of recovery of additional delay or non-delay-related damages from the Contractor, and the City expressly reserves the right to recover actual damages for other harms resulting from delay. The provisions of the liquidated damages clause shall apply and continue to apply even if the Contractor terminates or abandons the Project prior to the scheduled completion dates.

**ARTICLE IV. WORK AND MATERIALS**

**A. Cooperation of Contractor.** The contractor shall have available on the job site at all times at least one (1) copy of the plans and specifications prepared for the Project. He shall give the Project all attention necessary to facilitate the progress thereof and shall cooperate with the City, City Representative, and with other contractors in every way possible. Using his best skill and attention, Contractor shall give efficient supervision to the Project and shall be solely responsible for all construction means, methods, techniques, and procedures; for providing adequate safety precautions; and for coordinating all portions of the Project under the Contract.

**B. Superintendence.** Contractor shall assign to and keep at the Project site competent supervisory personnel and, prior to commencement of the Work, shall designate in writing an authorized representative who shall be an employee of the Contractor and who shall have complete authority to represent, to receive notice for, and to act for the Contractor. Contractor shall not permit or allow any work to be conducted upon the Project site without the presence of such supervisory personnel. The City Representative shall be notified in writing prior to any change in superintendent assignment.

**C. Contractor's Tools and Equipment.** The Contractor's tools and equipment used on the Project shall be furnished in sufficient quantity and of a capacity and type that will adequately and safely perform the work specified and shall be maintained and used in a manner that will not create a hazard to persons or property or cause a delay in the progress of the Project.

**D. Furnishing Labor and Equipment.** Contractor shall furnish and pay for all equipment, labor, and supervision, and all such materials as required to be furnished to perform the Work and as may otherwise be necessary to the completion of the Project and the operation of each construction crew required.

**E. Employees.** Contractor shall employ only competent, skillful workers on the Project, and whenever any person shall appear to be incompetent or to act in a disorderly, unsafe, illegal, or improper manner, such person shall promptly be removed from the Project by the Contractor.

**F. Materials and Appliances.** Unless otherwise stipulated, the Contractor shall provide and pay for all materials, water, heating, lighting, fuel, power, transportation, machinery, appliances, telephone, sanitary facilities, temporary facilities, and other facilities and incidentals necessary for the execution and completion of the Project.

Contractor warrants to the City that, unless otherwise specified, all materials furnished under this Contract shall be new and that both workmanship and materials shall be of good quality, free of faults and defects, and in conformance with the Contract. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials. Material and/or equipment damaged by flooding or other causes during the construction period shall be subject to rejection by the City Representative. Reconditioning and/or repairing materials used for the Project is not acceptable unless first approved by the City Representative.

**G. Asbestos and Hazardous Materials.** Unless specifically authorized and instructed to the contrary by the City, the Contractor shall not permit, allow, place, install, or incorporate into the Project or upon the work site, any hazardous material(s), including, but not limited to, any products or materials that contain asbestos in any quantity. It shall be the responsibility of the Contractor to inspect all materials and products delivered for incorporation or installation in the Project to ensure that they contain no hazardous materials or asbestos. Where the Contractor or any subcontractor has or should have a reasonable suspicion that any product or material contains asbestos or other hazardous material, the Contractor shall immediately inspect the material or product, obtain a product or material data sheet, and notify the City's representative prior to installation or incorporation of the same into the Project. Any product or material determined to contain asbestos or other hazardous material shall be removed from the Project immediately and properly disposed of as required by law. Products or material to which the Contractor should pay particular attention to avoid the presence of asbestos include, but are not limited to, the following: concrete, batt insulation, roof insulation, building felts, mastics, water proofing products, adhesives, resilient flooring products, ceiling tiles, interior coatings, exterior coatings, roofing, pipe installation, duct installation, and pre-assembled items of equipment.

At the completion of the Project, the Contractor shall submit a duly executed Asbestos Affidavit (if applicable) prior to final payment.

The Contractor is responsible for insuring that all of its employees and subcontractors are adequately trained to handle hazardous materials in accordance with 49 CFR §172(g).

**H. Protection of Project and Property (as applicable).** Contractor shall furnish and install all necessary temporary works for the protection of the Project. The Contractor shall at all times adequately maintain, guard, and protect the Project from damage and safely guard and protect private, commercial, industrial, the City's, and others' property from injury or loss arising in connection with this Contract. He shall make good any such damage, injury, or loss, except such as may be directly due to errors in the plans or specifications or caused by agents or employees of the City.

Contractor shall protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the site which are not required to be removed or do not unreasonably interfere with construction, as may be determined by the City Representative, and be responsible for all cutting or damaging of trees and shrubs or grassed areas, including damage due to careless operation of equipment or to the stockpiling of materials or equipment.

Care shall be taken by the Contractor in felling trees that are to be removed to avoid any unnecessary damage to vegetation or other trees that are to remain in place. Any limbs or branches unavoidably broken during such operations shall be trimmed with a clean cut and painted with an approved tree priming compound. The Contractor may be required to replace or restore at his own expense all vegetation not protected and preserved as required.

Contractor shall provide and maintain all passageways, guard fences, lights, and other facilities required for protection by federal, state, or municipal laws and regulations, or local conditions.

Contractor shall comply with local and state regulations governing the operation of premises that are occupied and shall perform the Contract in such a manner as not to interrupt or interfere with the operation of other facilities.

Contractor shall store his apparatus, materials, supplies, and equipment in such orderly fashion at the site of the Project as will not unduly interfere with the progress of the Work or the work of any subcontractor.

Contractor shall not place upon the Project, or upon any part thereof, loads inconsistent with the design or safety of that portion of the Project.

Contractor shall provide and maintain access to all public and private properties at all times and be responsible for any damage caused by his operation to existing driveways, yards, streets, parking lots, utilities, railroads, etc., and such damage shall be corrected at the Contractor's expense. Roadways authorized closed by State or Local authorities shall be maintained to provide access to all fire, police, and other emergency vehicles, and all individuals having private property in the closed area. In the event access to any public or private property or right-of-way will be completely closed for a period of time, Contractor shall notify the City Representative and all other individuals, businesses, or governmental agencies that may be affected by such closure at least seventy-two (72) hours in advance.

**I. Protection of Existing Utilities.** Contractor shall determine the exact location of all existing utilities before commencing the Work and shall provide whatever measures are necessary to properly protect and maintain all existing utilities encountered in the course of the Work. The contractor agrees hereby to be fully responsible and liable for any and all damages which might occur by his failure to exactly locate and/or preserve the location of any and all underground or overhead utilities. If any utilities are to be affected during the course of construction, the Contractor shall notify the owners thereof at least seventy-two (72) hours prior to any such construction activity. The Contractor shall fully cooperate and coordinate with all utility owners in the event of

an interruption to any utility service. The cost for locating, uncovering, and protecting underground and/or overhead utilities is included within the Contractor's price.

Additionally, Contractor shall maintain all storm sewers, drains, and/or ditches so that flow is not disturbed or impeded. Contractor shall protect storm drains, inlets and/or ditches, lawns, landscaping, and other facilities from damage during the testing and flushing.

**J. Limiting Exposures.** The Contractor shall perform the work on the Project to ensure that no part of the construction, complete or in progress, is subject to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period.

Contractor shall minimize dust and air pollution through the use of water or other devices and shall require the use of properly operating combustion emission control devices. Contractor shall also encourage the shutdown of construction vehicles when not in use.

**K. Safety.** Contractor shall take all necessary precautions for the safety of employees on the Project and shall comply with all applicable provisions of federal, state, and municipal safety laws and applicable regulations to prevent accidents or injury to persons on or about or adjacent to the premises where the Project is being performed. He shall erect and properly maintain at all times, as required by conditions and progress of the Project, all necessary safeguards for the protection of workmen and the public and shall post danger signs warning against the hazards created by features of construction and the site.

Machinery, equipment, and all hazards shall be guarded or eliminated in accordance with the State Accident Prevention in Construction provisions to the extent that such provisions are not in contravention with applicable laws.

Contractor shall do whatever work is necessary for safety and be solely and completely responsible for conditions of the jobsite, including safety of all persons (including, but by no means limited to, the public, site personnel, visitors, or City employees) and property during the Contract period. The Contract period shall include any subsequent warranty or other period associated with Project deficiency or repair and all hours including, and in addition to, normal working hours.

Safety provisions shall conform to the Federal and State Departments of Labor and the Occupational Safety and Health Act (OSHA), and all other applicable federal, state, county, and local laws, ordinances, codes, the requirements set forth in this Agreement, and any regulations that may be specified in other parts of this Contract. Where any of these are in conflict, the more stringent requirement shall be followed. The Contractor's failure to thoroughly familiarize himself with the aforementioned safety provisions shall not relieve him from compliance with the obligations and penalties set forth in those standards and regulations.

Contractor shall at all times provide proper facilities for safe access to the work by authorized representatives of the Owner.

**L. Traffic Control.** Contractor shall be responsible for any necessary traffic control, including a plan and all necessary devices, required to work in, upon, or in proximity to public right-of-way or vehicular traffic. The traffic control plan and all traffic control devices shall conform, at a minimum, to the *Manual on Uniform Traffic Control Devices for Streets and Highways*, latest edition, Federal Highway Administration. Should the appropriate public authority determine a greater degree of traffic control is required, the Contractor shall promptly provide the same. Where deemed necessary by either the Contractor or the City, the Contractor shall submit a plan to the City Representative for approval before commencing construction.

Reasonable means of ingress and egress by vehicular and/or pedestrian traffic to property adjacent to the Project shall be maintained at all times. The Contractor shall indemnify and hold the City harmless for any claims or causes of action including, but not limited to, those for inverse condemnation and/or lost profits arising out of or in any manner associated with access to or the restriction or prevention thereof to adjoining property. Traffic control is of paramount importance during the construction of this Project and the terms and conditions in the Contract in regard to these matters must be strictly adhered to.

**M. Sanitary Regulations.** Contractor shall provide and maintain such sanitary accommodations for the use of his employees and those of his subcontractors as may be necessary to comply with the requirements and regulations of the local and State Department of Health. At a minimum, necessary sanitary conveniences for the use of the laborers on the work shall be erected and maintained by the Contractor in such a manner and at such points as shall be approved by the City Representative. Use of these facilities must be strictly enforced.

**N. Cutting, Patching.** Unless otherwise stated in this Agreement, the Contractor shall be responsible for any necessary cutting, fitting, and patching of the Project that may be required to properly receive the Work, to make its several parts join together properly, and to receive and provide for the work of other contractors or utilities, or as required by drawings and specifications to complete the Project. After such cutting, Contractor shall replace or restore or repair and make good all defective or patched work as required by the City Representative. He shall not cut, excavate, or otherwise alter any work in any manner or by a method or methods that will endanger the Project, adjacent property, workmen, the public, or the work of any other contractor. The Contractor shall check the location of all sleeves, openings, slots, etc., for the piping, ducts, breeching, conduits, louvers, grills, fans, etc., as they are laid out on the job.

Under no condition shall structural, framing, or other parts or members subjected to computed stress be cut or disturbed without the approval of the City Representative. Any plates, studs or joists, or rafters that are approved to be cut to execute necessary work shall be securely strapped and braced to restore their strength by approved methods.

Unless otherwise indicated in the Contract Documents, all pavement, rights-of-way, or driveways cut by the Contractor during the performance of the Project shall be returned to service as soon as possible and replaced or repaired within seven (7) calendar days of completion of the Project.

All major thoroughfares must be repaired the same day as cut. The Contractor shall be responsible for the safety and welfare of the traveling public while construction work is being done and until the City accepts the Project.

Contractor will replace, at his own expense, all pipe and accessories that may be broken, damaged, stolen, or lost and all materials that may become damaged, lost, stolen, or misused.

City Representative's approval shall be obtained before cutting or drilling holes in concrete or masonry that tend to damage or weaken the load capacity.

**O. Trailers.** With the approval of the City Representative, the Contractor may park trailers or other structures for housing men, tools, machinery, and supplies, but they will be permitted only at approved places and their surroundings shall be maintained at all times in a sanitary and satisfactory manner by the Contractor. On or before the completion of the Project, all such trailers or structures shall be removed, unless the City authorizes their abandonment without removal, together with all rubbish and trash, at the expense of the Contractor.

**P. Construction Staking.** If necessary, the City will furnish initial lines and grades to establish the initial horizontal and vertical control points and define the beginning and ending points of the Project. The Contractor is responsible for engaging the services of a qualified engineer or land surveyor to replace and/or re-establish, in accordance with the construction plans and/or specs, all construction stakes that are disturbed, displaced, or destroyed during construction.

If the Contractor finds any errors or discrepancies with the construction staking or the criteria upon which it is based, he/she shall promptly notify the City Representative.

**Q. Periodic Cleanup.** At all times, the Project premises should be sanitary, safe, reasonably clean, and orderly. Contractor shall provide adequate and approved containers throughout the work site for collection and disposal of waste material, debris, and rubbish and shall, at least weekly (and as requested by the City Representative during the progress of the Project), clean up and remove from the premises all refuse, rubbish, scrap materials, and debris caused by its employees or its subcontractors resulting from the Work. Trash and combustible materials shall not be allowed to accumulate inside buildings or elsewhere on the premises. At no time shall any rubbish be thrown from window openings, except during building renovations with adequate precautions and into proper receptacles. The Contractor shall comply with all municipal litter and construction site ordinances.

Contractor shall conduct cleaning and disposal operations to comply with local ordinances and anti-pollution laws, including, but not limited to all applicable portions of the City's stormwater control ordinance. No burning or burying of rubbish or waste materials is permitted on the Project site. The Contractor shall dispose of any hazardous material in a safe manner, off site, in accordance with applicable laws and regulations and shall not dispose of volatile or hazardous waste in storm or sanitary sewer drainage ditches, streams, or waterways.

Before the Project will be considered complete, all rubbish created by or in connection with the Project must be removed by the Contractor and the premises left in a condition by the Contractor satisfactory to the City Representative. Streets, curbs, crosswalks, pavement, sidewalks, fences, and other public and private property disturbed shall be restored to their former condition or better, and final payment will be withheld until such work is finished by the Contractor.

**R. Erosion Control.** As required by the City of Madison Engineering Department, Contractor shall provide and maintain temporary soil erosion and sediment controls necessary for the management of construction stormwater discharge quality. These controls shall be in accordance with the most recent version of Section 665, "Temporary Soil Erosion and Sediment Control," of the Alabama Department of Transportation's *Standard Specifications for Highway Construction*, and shall be designed to protect the Project site from soil erosion and adjacent property and waters from damage by sediment transport and deposition during construction.

**S. Wastewater Containment and Management Plan.** To the extent that construction activity by the Contractor involves any wastewater infrastructure or construction activities in close proximity to any wastewater infrastructure, Contractor shall submit to the City Engineer, prior to commencing construction, a wastewater containment and management plan (the "Plan"). The Plan shall adequately address the means, methods, and techniques to be employed by the Contractor for containing and transporting wastewater in a sanitary manner without, at any time, permitting the discharge of wastewater into the environment or creating the necessity of a State-required sanitary sewer overflow report. The City Engineer may waive the requirement of submitting a Plan if he determines that the construction activity to which the Plan would relate does not involve any potential for the discharge of wastewater into the environment or does not necessitate creation of a State-required sanitary sewer overflow report.

**T. Environmental Clause/Covenant.** In all respects, Contractor shall comply with all environmental laws affecting the Premises. Contractor covenants to hold the City, its officers, agents, and employees harmless from and against any losses, costs, damages, or expenses (including attorney's fees and expenses) arising out of the presence of hazardous substances on or about the premises or the violation of any environmental laws with respect thereto, the occurrence of which having arisen solely from the acts or omissions of Contractor, its subcontractors, agents, invitees, or employees. This indemnity shall survive the termination of this Contract and shall inure to the benefit of the City of Madison and its successors and assigns.

## **ARTICLE V. INSURANCE, LIABILITY**

### **A. Contractor's Insurance.**

1. Insurance Required. The Contractor shall not commence work under this Contract until it has obtained all insurance required and such insurance has been accepted by the City. The Contractor shall maintain the required insurance during the term of the Contract including any extensions of the term.

Insurance shall be written in comprehensive form by insurance companies rated A- or better by A. M. BEST and shall protect the Contractor and the City against claims for injuries to members of the public (including City employees) or damages to property of others (including City property) arising out of any act of the Contractor or any of its agents, employees or subcontractors and shall cover both on-site and off-site operations under this Contract and insurance coverage shall extend to any motor vehicles or other related equipment, irrespective of whether the same is owned, non-owned or hired.

The obtaining and maintaining by Contractor and subcontractors of the insurance required in this Agreement does not relieve the Contractor of any responsibilities, obligations, or duties to the City pursuant to this Contract.

2. Additional Insurance. The Contractor may have an insurance professional review the Contractor's activity in regard to the performance of this Contract and is free to obtain any further or additional insurance or greater limits as recommended by the insurance professional. All additional policies of insurance shall name the City as an additional insured.
3. Insurance Limits. Neither the setting of insurance limits or requirements nor the acceptance or approval of the same by the City imply or represent that the limits or the insurance carrier is sufficient or that such insurance actually has been obtained, that being the responsibility of the Contractor.
4. Subcontractors. The Contractor shall require all subcontractors to take out and maintain the type of insurance required in this Agreement to the extent of their involvement in the Project so as to be adequate to protect against liability. In the event any work under this Contract is performed by a subcontractor(s), the Contractor shall remain responsible for any liability directly or indirectly arising out of the work performed under this Contract, regardless of whether or not such work is covered by the subcontractor's insurance. The Contractor shall not allow any subcontractor to commence work on the project until all similar insurance required of the subcontractor has been obtained. All subcontractors shall maintain required insurance during the term of the Contract including any extensions of the term.



5. City’s Right to Review Coverage. The City shall have the right to inspect and approve Contractor's insurance coverage required in this Agreement. Should the City deem it advisable to modify the coverage in any way, it shall so request of the Contractor in writing, and should the Contractor fail to modify the coverage, then the City may pay the cost of any increased coverage or take credit for any decreases as may be appropriate. Review or acceptance of insurance by the City or representatives of the City shall not relieve or decrease the responsibility of the Contractor hereunder.
  
6. Waiver of Subrogation. To the extent that the Contractor is required to maintain insurance coverage for loss or damage to property or bodily injury, including Builders Risk All Risk insurance, the insurance must waive, and the Contractor hereby waives subrogation of claims against the City, its officers, agents and employees.
  
7. City as Additional Insured. The City shall be named as additional insured for ongoing and completed operations for up to two (2) years on the Contractor's and any subcontractor's policies for any claims arising out of the Work. Contractor shall provide the City with a Certificate of Insurance and endorsements naming the City as an additional insured and giving the City the promise of a thirty (30) day notice of cancellation or intent not to renew the insurance. Unless precluded by law, all policies must waive the right to recovery or subrogation against the City, officers, directors, employees, agents, and representatives. The coverage available to the City as an additional insured shall not be less than the limits set forth in this section and shall apply as primary and non-contributory insurance with respect to any other insurance afforded to the City through its own carrier or otherwise.
  
8. Elevators, Hoists, Cranes, Conveyors. If the Contractor or a subcontractor will utilize in connection with the performance of the Work an elevator, material hoist, crane, conveyor, or other similar equipment, then the Contractor shall take out and maintain (or require the subcontractor to take out and maintain) insurance that shall protect the Contractor and the City against claims for injuries to members of the public (including City employees) or damages to property of others (including City property) arising out of any act of the Contractor or any of its agents, employees, or subcontractors resulting from the operation of such equipment.

**B. Insurance.**

TYPES OF INSURANCE	MINIMUM LIMITS OF LIABILITY
<b>Worker’s Compensation</b>	Statutory
<b>Employer’s Liability</b>	\$1,000,000 <i>each employee, each accident and policy limit</i>
<b>Commercial General Liability</b>	
Each Occurrence	\$2,000,000
Personal and Advertising Injury	\$2,000,000
Products/Completed Operations	\$5,000,000
General Aggregate	\$5,000,000
Umbrella/Excess	\$5,000,000 each occurrence, and \$5,000,000 aggregate
<b>Automobile Liability</b>	\$1,000,000 <i>each accident, combined single limit</i>

1. Worker's Compensation Insurance. Contractor shall take out and maintain during the term or any extensions of this Contract Workmen's Compensation Insurance as required by Alabama law for all of its employees employed on the Project and, in case any work is sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor.

In case any class of employees engaged in any work under this Contract at the site of the Project is not protected under the Workmen's Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate accident insurance for the protection of its employees not otherwise protected.

Where work under this Contract may trigger the requirement for Federal Longshoreman's and Harbor Worker's Act and Federal Jones Act or insurance required by other applicable law or regulations, the Contractor shall obtain the same as required.

2. Owner's Protective Insurance. For projects with a contract amount of \$500,000.00 or greater, an Owner's Protective Policy is required in the minimum amount of \$1,000,000 each occurrence.
3. Umbrella/Excess Liability Insurance. Excess Liability insurance must insure against bodily injury, personal and advertising injury, and property damage, and all other coverages as specified above (Commercial General Liability, Employer's Liability, and Commercial Automobile Liability). Coverage must be in the follow form and must apply as excess of the scheduled underlying policies. Such policy(ies) shall name the Owner as additional insureds to the policy by applicable endorsement and provide a waiver of subrogation endorsement in favor of the Owner.
4. Miscellaneous Insurance. Contractor shall provide whatever insurance may be required of the City or the Contractor by permits from or agreements with the railroad, highways, or other utilities. Contractor shall familiarize himself with all insurance requirements contained in easements, permits, and agreements associated with this Project. Contractor shall provide any Railroad Protective Liability and other General Liability Insurance in the amounts contained in the agreements, permits, or easements or in greater amounts if higher limits are appropriate or required elsewhere. To the extent the City obtains permits or licenses for railroad or highway bores, crossings, or other work involved in the Project, the Contractor shall obtain adequate insurance to protect itself and the City.
5. Builder's Risk All Risk Insurance. The Contractor shall secure and maintain during the life of this Contract Builder's Risk All Risk Insurance coverage for 100% of the Contract Price. This insurance shall not exclude coverage for earthquake, landslide, tornado, flood, collapse, or loss due to the result of faulty workmanship. Such insurance shall also provide for any damages caused by injury to, or destruction of, tangible property, including loss of use resulting therefrom, and shall pay all losses to the Contractor and the City as their interest may appear.
6. Proof of Carriage of Insurance. Contractor shall furnish the City with satisfactory proof of carriage of the insurance required in this Agreement in the form of insurance certificates and endorsements, as well as the form of a policy upon City request.
  - a. Contractor's and any subcontractor's general liability and automobile liability insurance shall endorse the City of Madison, Alabama, a municipal corporation, and its officers, agents, and employees as additional insureds for any claims arising out of the Work.

- b. Contractor's insurance endorsing the Owner and others as additional insureds shall be primary and non-contributory as to such endorsed insureds.
- c. The certificate or policy, as the case may be, shall state that the City shall be given thirty (30) days' written notice of cancellation or of any change in the insurance coverage.
- d. There shall be a statement that the Contractor and any subcontractors waive subrogation as to the City, its officers, agents, and employees.
- e. There shall be a statement that full aggregate limits apply per job or contract.
- f. Agent's verification of Contractor's insurance must be provided in a form satisfactory to the City.
- g. Insurance shall contain no XCU exclusions or special endorsements.
- h. Full aggregate limits must apply per job or contract.

**C. No Personal Liability of Public Officials.** In carrying out any of the provisions hereof in exercising any authority granted by the Contract, there will be no personal liability upon any public official.

**D. Indemnity.** To the maximum extent permitted by law, the Contractor shall save harmless, indemnify, and defend the City and its officers, agents, and employees from and against any and all claims and losses, costs, expenses, or liability, including attorney's fees and litigation costs, caused by, arising out of, resulting from, or occurring in connection with the performance of the Work by the Contractor or any subcontractor, regardless of the fault, breach of contract, or negligence of the City, its officers, agents, or employees, excepting only such claims or losses that have been adjudicated to have been caused solely by the negligence of the City and regardless of whether or not the Contractor is or can be named a party in a litigation.

Contractor agrees to indemnify and/or reimburse the City for any fines, violations, charges, suits, or sums of money imposed by the Alabama Department of Environmental Management (ADEM), Environmental Protection Agency (EPA), or any administrative agency on the City of Madison for any sewage or contaminate discharged or wetlands regulations violated as a result of or arising out of the Work as performed by Contractor.

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the City from any and all losses, consequential damages, expenses (including, but not limited to, attorneys' fees and court costs), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Contractor's failure to fulfill its obligations set forth in this section or contained in Ala. Code § 31-13-1 (1975), et seq.

**E. Errors and Omissions.** Contractor agrees to release and hold harmless the City of Madison and each of its officers, agents, and employees from any damages claimed by the Contractor or subcontractors resulting from or attributable, in whole or in part, to errors in or omissions of the plans and specifications, including final drawings of the Engineer or other design professionals. As to plans, specifications, or designs prepared by independent design professionals, the parties agree that any City review or approval thereof is only for overall suitability, maintenance, and usability and there are no express or implied warranties by the City as to the adequacy, accuracy, correctness, or code compliance thereof.

**F. Exclusion of Contractor Claims.** In performing its obligations, the City Representative may cause expense for the Contractor or its subcontractors and equipment or material suppliers. However, those parties and

their sureties shall maintain no direct action against the City or its officers, employees, or agents for any claim arising out of, in connection with, or resulting from the engineering services performed or required to be performed where such services are performed in good faith to protect the City or the public.

**G. Inadequate Surety/Insurance.** It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement, any of the surety bonds of the Contractor or subcontractors relating to the Project shall be deemed by the City to be unsatisfactory, or if for any reason such bond(s) ceases to be adequate to cover the performance of the Work or the surety ceases to do business by agent in Alabama, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the City so to do, furnish an additional bond or bonds in such form and amount and with such surety or sureties as shall be satisfactory to the City. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the Work shall be furnished in manner and form satisfactory to the City.

**H. Changes.** When changes in the scope of work by written order or Change Orders cumulatively equal ten percent (10%) of the total contract, including the Change Order or Change Orders, the insurance coverage included under this heading shall be increased accordingly by the Contractor. Proof of coverage shall be established by endorsement to the original policy or by re-issue of the original policy to include the added coverage, or in accordance with any other acceptable policy with the insuring company for increasing the coverage.

## **ARTICLE VI. OBSERVATION OF THE PROJECT**

**A. Authority and Duties of City Representative.** The City Representative shall be authorized and permitted to inspect all facets of the Work, including all materials, workmanship, equipment, processes, and methods of construction used by Contractor. Subject to the provisions of Article II, paragraphs F & G, he is not authorized to alter or waive any requirements of the specifications or the Contract. However, he shall have authority to reject material, workmanship, and/or equipment that are defective or otherwise not in accordance with the drawings and specifications and require correction by the Contractor. No work shall be deemed complete until it has been inspected by the City Representative.

The City Representative may designate observers, with assigned duties and restricted authority, to inspect the Project and to report to him on the progress of the Project, manner of procedure, quality of the material and workmanship, and compliance with the Contract. However, the presence of the City Representative or his designee as an inspector of the work performed shall not in any manner lessen the responsibility of the Contractor pursuant to this Agreement. Neither the City Representative nor any other representative of the City shall be responsible in any way for construction means, methods, or techniques or for the safety of the construction work, progress, or employees of the Contractor or any subcontractors.

**B. Defective Work/Correction.** Rejected workmanship shall be satisfactorily corrected by Contractor and rejected material shall be satisfactorily replaced with proper material by the Contractor, each without charge therefor, and the Contractor shall promptly segregate and remove the rejected material from the premises. Upon failure or neglect by the Contractor to promptly prosecute or perform the Work in accordance with the Contract or to make corrections to the Work as required by the City Representative, the City may, without prejudice to any other remedy it may have, complete the Work and/or correct the deficiencies and then deduct the actual cost thereof from payment which is then or thereafter due to the Contractor.

**C. Contractor's Obligation Continues.** The inspection of the Work shall not relieve the Contractor of any of its obligations to fulfill its Contract, notwithstanding that such work has been previously inspected by the City Representative and accepted or estimated for payment. The failure of the City Representative as inspector to

condemn improper workmanship shall not be considered as a waiver of any defect, whether known at the time or discovered later, or as preventing the City at any time subsequently from recovering damages for work actually defective. All work shall be guaranteed by the Contractor against defects in workmanship for a period of **two (2) years from date of final payment.**

**D. Disagreement.** Should any disagreement or difference arise as to the estimated quantities or classifications or as to the meaning of the drawings or specifications, or any point concerning the character or acceptability or nature of the several kinds of work, or construction thereof, the decision of the City Representative shall be final and conclusive and binding on the Contractor.

**E. Stop Work Orders.** During unseasonable weather, all Work must stop when the City Representative so directs, and all work must be suitably protected by Contractor at all times. However, the City Representative shall be under no obligation to stop work on the Project. If the Project is stopped, the Contractor shall not be entitled to extra compensation for delays or problems associated with the stoppage.

**F. Progress Meetings.** Contractor shall conduct regular progress meetings during the course of the Project at least once a month or more often if requested by the City Representative. The meetings shall be held at a site convenient to all parties and if a site cannot be agreed upon, the City will designate a site. The Contractor, City Representative, the Contractor's Superintendent, all subcontractors, engineers, and inspectors, will attend.

If requested by the City Representative, Contractor shall keep accurate written minutes of the meetings and forward copies thereof to the City Representative before the next scheduled meeting.

## **ARTICLE VII. PROJECT COMPLETION**

**A. Substantial Completion.** "Substantial completion" shall be that degree of completion of the Project or a defined portion of the Project, as evidenced by the City Representative's written notice of Substantial Completion, sufficient to provide the City, at its discretion, the full-time use of the Project or defined portion of the Work for the purposes for which it was intended.

When the Contractor believes that the Project is substantially complete, the Contractor shall prepare and submit to the City Representative a list of items to be completed or corrected and request an inspection for Substantial Completion. The failure by the Contractor to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract. After inspection and/or, if an operating facility, after a minimum of seven (7) continuous days of successful, trouble-free operation has been achieved during startup, the City Representative may, at his sole discretion, issue a written notice of substantial completion for the purpose of establishing the starting date for specific equipment guarantees or warranties, and to establish the date that the City will assume the responsibility for the cost of operating such equipment.

Said notice shall not be considered as final acceptance of any portion of the Project or relieve the Contractor from completing the remaining Work, including any remaining performance or acceptance testing, within the specified time and in full compliance with the Contract. Specifically, the issuance of a written notice of Substantial Completion shall not relieve the Contractor of his obligation to promptly remedy any omissions and latent or unnoticed defects in the Project.

**B. Final Inspection.** Upon notice from the Contractor that its work is complete, the City Representative shall make a final inspection of the Work and conduct any necessary testing. The City Representative shall notify the Contractor of all apparent and/or visible instances where the Project fails to comply with the plans and specifications and Contract, as well as any defects he may discover. Contractor shall immediately make such

alterations as are necessary to make the Project comply with the plans and specifications and to the satisfaction of the City Representative.

After the City Representative has determined that the Work is acceptable under the Contract and after publication of final completion and all other requirements of final payment as provided for in this Agreement, then there shall be issued a final certificate of payment to the City stating the balance due the Contractor, less such amounts as may have been withheld by the City from time to time as provided in the Contract. In recommending to the City that it make such final payment to the Contractor, the City Representative shall also issue a certificate of final acceptance in which he shall recommend to the City that it accept the Work as complete and the Project as being final pursuant to the Contract.

None of the steps or actions taken by the City shall in any way relieve the Contractor of responsibility for faulty materials or workmanship. All warranty and guarantee periods for Contractor's Work on this Project shall commence on the date of issuance of final payment.

**C. "As-Built" Drawings.** Unless waived by the City Representative, the Contractor must provide to the City a set of "as-built" drawings acceptable to the City as a component part of the Project prior to final payment.

**D. Final Cleanup.** Before final completion and final acceptance, the Contractor shall remove from all rights-of-way and from all public and private property all tools, scaffolding, false work, temporary structures and/or utilities and their foundations (except those the City permits in writing to remain), rubbish and waste materials resulting from its operation or caused by its employees, and all surplus materials, leaving the site clean and true to its line and grade and the Project in a safe and clean condition ready for use and operation.

In the case of failure to comply with the above requirements for any part of the Project within the time specified by the City Representative, he may cause the work to be done and deduct the cost thereof from the Contract price on the next or succeeding application for payment, or in the event that the cost exceeds the balance due the Contractor, bill the Contractor for the excess.

**E. Notice of Completion.** Contractor shall, immediately after the completion of the Project and acceptance by the Owner as provided for in this Agreement, give notice as required by and in accordance with *Ala. Code* §39-1-1(f). Proof of publication of said notice shall be made by the Contractor to the City of Madison by affidavit of the Publisher and a printed copy of the notice published.

**F. Final Payment.** Upon completion of the Project by the Contractor and acceptance by the City Representative of all Work required of the Contractor for the Project, the amount due the Contractor pursuant to the Contract shall be paid upon the presentation by the Contractor to the City Representative of the documents set forth in Article II, Section D. for the purposes of establishing the following:

1. Evidence that all payrolls and all amounts due for labor and materials, other than claims for damages due to tort, have been fully paid and satisfied and there are no outstanding claims or demands associated with the work on the Project.
2. A release of all claims and claims of lien against the City from the Contractor and all major subcontractors (the City may waive the requirement for subcontractor releases) arising under and by virtue of the Contract and with the consent of the surety for release of final payment. If any subcontractor refuses to furnish such a release, Contractor may, with the consent of the City representative, furnish a bond with surety satisfactory to the City representative to indemnify against such claims.

3. Proof of publication of notice of completion, including affidavit of publisher and a printed copy of the notice so published, as provided by law.
4. In accordance with Ala. Code §39-2-12(c), a Non-Resident Contractor shall satisfy the City that he or she has paid all taxes due and payable to the State, the City and all applicable political subdivisions.

**G. Acceptance of Final Payment Constitutes Release.** The acceptance by the Contractor of the final payment shall release the City, the City Representative, and their officers, employees, agents, and sub-consultants from all claims and all liability to the Contractor for all things done or furnished in connection with the Project, and every act of the City and others relating to or arising out of the Project except claims previously made in writing and still unsettled. No payment, however, final or otherwise, shall operate to release the Contractor or his Sureties from obligations under this Contract and the Performance Bond, Payment Bond, and other bonds, warranties and guarantees as provided in this Agreement and ITB.

## ARTICLE VIII. WARRANTY AND GUARANTEES

### A. Warranty and Guarantee.

1. *Warranty.* Contractor warrants to the City that all materials and equipment furnished under this Contract will be new unless otherwise specified and that all work, materials, and equipment will be of good quality, free from fault and defects and in conformance with the Contract. The Project must be safe, substantial, and durable construction in all respects. All work, materials, and equipment not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. Warranties shall commence to run from the date of substantial completion.

The Project furnished must be of first quality and the workmanship must be the best obtainable. The Contractor hereby guarantees the Project and the work on the Project against defective materials or faulty workmanship for **two (2) years after final payment** by the City and shall replace or repair any defective materials or equipment or faulty workmanship during the period of guarantee at no cost to the City.

2. *Guarantee.* If, within the designated warranty period, any of the Project, work, materials, or equipment is found to be defective or not in accordance with the Contract, the Contractor shall correct it promptly after receipt of written notice from the City to do so. The City shall give such notice promptly after discovery of the condition.

**B. Correction of Defective Work During Warranty/Guarantee Period.** Contractor hereby agrees to make, at his own expense and no cost to the City, all repairs or replacements necessitated by defects in materials or workmanship, provided under the terms of this Contract, and to pay for any damage to other works resulting from such defects, which become evident within **two (2) years after the date of final payment** unless the City has previously given the Contractor a written acceptance of such defects. The Contractor shall promptly correct such defects upon receipt of a written notice from the City to do so. This obligation shall survive the termination of the Contract.

Unremedied defects identified for correction during the warranty period, but remaining after its expiration, shall be considered as part of the obligations of the warranty. Defects in material, workmanship, or equipment which are remedied as a result of obligations of the warranty shall subject the remedied portion of the Project to an extended warranty period of **one (1) year after the defect has been remedied**.

Contractor further assumes responsibility for a similar guarantee for all work and materials provided by subcontractors.

Contractor also agrees to hold the City, the City Representative, and City’s employees harmless from liability or damages and cost and expenses of litigation of any kind arising from damage due to said defects.

City's rights under this Article shall be in addition to, and not a limitation of, any other rights and remedies available by law.

**ARTICLE IX. LAWS, PERMITS**

Contractor shall comply with and keep itself fully informed of all federal, state, city, and county laws, ordinances, and regulations which affect those engaged or employed in the Project or the execution of the Project. Contractor shall possess all permits and licenses required by applicable law, rule, or regulation for the performance of the Project.

Contractor shall protect and indemnify the City and its employees, officers, consultants, and agents against any claim or liability arising from or based on the violation of any such laws, ordinances, or regulations, including, but not limited to, violation of copyright or patent laws.

Contractor shall cooperate with the City Engineer to register and obtain any and all necessary National Pollutant Discharge Elimination System (NPDES) Permits required by USEPA or the Alabama Department of Environmental Management (ADEM) as well as any applicable storm water permits or registration for the construction of the improvements specified in the Contract. Contractor shall abide by all regulations and conditions relative to the permit or registration and attachments to the permit or registration, including, but not limited to, sampling and monitoring. At the request of the City Representative, Contractor shall fulfill for the City all the requirements made upon the City by the permit or registration and shall perform all Work in compliance with and as required thereby. Contractor agrees to indemnify and hold harmless the City and its officers, agents, and employees from any fines, penalties, damages, claims, liabilities, or judgments arising out of or in any manner associated with Contractor’s failure to perform the Work in strict accordance with all stormwater registration, permits, or license requirements.

If any portion of the Project involves work upon State right-of-way, the Contractor agrees to abide by the laws, terms, and conditions applicable to the same and obtain all permits required by the Alabama Department of Transportation.

**ARTICLE X. MISCELLANEOUS**

**A. Notice and Service Thereof.**

1. All notices, demands, requests, Change Orders, instructions, approvals and claims shall be in writing. Unless expressly otherwise provided elsewhere in this Agreement, any election, notice, or other communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if provided in accordance with the provisions hereof.
2. Any notice to or demand upon either party shall be in writing and shall be sufficiently given if addressed as stated in this Agreement and deposited in the United States mail in a sealed envelope with sufficient postage prepaid or delivered via private carrier in a sealed package with all costs



being paid by the sender. It shall also be sufficient if such notice or demand is served personally on a party at the address set forth below.

3. **All notices to the City shall be addressed as follows:**

Parks and Recreation Director  
City of Madison Parks and Recreation Department  
8324 Madison Pike  
Madison, Alabama 35758

**With a copy to:**

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

**All notices to Contractor shall be addressed as follows:**

Gary W. Hogan  
Managing Owner  
Hogan’s Mechanical Services, LLC  
69 Hartington Dr.  
Madison, AL 35758

**B. Capacity.** Each party to this Agreement represents and warrants to the other as follows:

1. That it is an individual of the age of majority or otherwise a legal entity duly organized and in good standing pursuant to all applicable laws, rules, and regulations.
2. That it has full power and capacity to enter into this Agreement and to perform each of the obligations and responsibilities conferred and assumed hereunder.
3. That, to the extent required, it has obtained the necessary authorization and approval through a legally binding act of its organization and that such approval has been reduced to writing and certified or attested by the appropriate official of the party.
4. That it has duly authorized and empowered a representative to execute this Agreement on its behalf and the execution of this Agreement by such representative fully and completely binds the party to the terms and conditions hereof.
5. That, absent fraud or other illegality, the execution of this Agreement by a representative of the party shall constitute a certification that all such authorizations for execution exist and have been performed and the other party shall be entitled to rely upon the same. To the extent a party is a partnership, limited liability company, or joint venture, the execution of this Agreement by any member thereof shall bind the party and to the extent that execution of the Agreement is limited to a manager, managing partner, or specific member, then the person so executing this Agreement is duly authorized to act in such capacity for the party.
6. That it represents and warrants to the other party that, to its knowledge, there is no litigation, claim, or administrative action threatened or pending or other proceedings against it which would have an adverse impact upon this transaction or upon its ability to conclude the transaction or perform pursuant to the terms and conditions of this Agreement.

7. That it has obtained any and all required licenses, permits, approvals, and/or authorizations from third parties to enable it to fully perform pursuant to this Agreement.
8. That under the applicable provisions of the Constitution and laws of the State of Alabama it has the power to consummate the transactions contemplated by this Agreement.
9. That it represents and warrants that the execution and delivery of this Agreement and the consummation of the transactions contemplated herein will not conflict with, be in violation of, or constitute (upon notice or lapse of time or both) a default under the laws of the State of Alabama; any resolution, agreement, or other contract, agreement, or instrument to which the party is subject; or any resolution, order, rule, regulation, writ, injunction, decree, or judgment of any governmental authority or court having jurisdiction over the party.
10. That this Agreement constitutes the legal, valid, and binding obligation of the party and is enforceable against it in accordance with its terms, except in so far as the enforceability thereof may be limited by:
  - (a) Bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights
  - (b) General principles of equity, regardless of whether such enforceability is considered as a proceeding at equity or at law.
11. That it will not enter into any agreement to do anything prohibited in this Agreement or enter into any agreement or take any action which would in any way impair the ability of the other party to faithfully and fully perform its obligations hereunder.

**C. No Waiver of Rights.** Neither the inspection by the City Representative or by any of the City's officers, employees, agents, or sub-consultants; nor any order by the City for payment of money; nor any payment for, or acceptance of, the whole or any part of the Project by the City; nor any extension of time or Change Order; nor any possession taken by the City or its employees; nor the failure by either party to enforce any provision of this Agreement shall operate as a waiver of any provision of this Agreement or of any power reserved to the City in this Agreement, or any right to damages, nor shall any waiver of any breach in this Agreement be held to be a waiver of any other or subsequent breach. Acceptance or final payment shall not be final and conclusive with regard to latent defects, fraud, or such gross mistakes as may amount to fraud, or with regard to the City's rights under any warranty.

**D. Subletting or Assigning of Contract.** Contractor shall not sublet, assign, transfer, convey, sell, or otherwise dispose of any portion of the Agreement, its obligations, rights, or interest in it, or its power to execute such Agreement, to any person, firm, or corporation without written consent of the City and such written consent shall not be construed to relieve the Contractor of any duty or responsibility to fulfill the Agreement. A sale, conveyance, or transfer of 50% or more of the stock or ownership of the Contractor shall be considered an assignment. However, in no event shall any portion of this Agreement be assigned to an unsuccessful Bidder whose Bid was rejected because he or she was not a responsible or responsive Bidder.

**E. Third Party Beneficiaries.** It is the intent of the parties hereto that there shall be no third-party beneficiaries to this Agreement.

**F. Force Majeure.** Neither party to this Agreement shall hold the other party responsible for damages or delay in performance caused by acts of God, strikes, lockouts, or other circumstances beyond the reasonable control of the other or the other party's employees, agents, or contractors.

**G. Liability of the City or City Officials.** Notwithstanding any provision hereof to the contrary, the parties agree and acknowledge that the liability and obligations of the City, City officials, and City employees as set forth in this Agreement are subject to the limitations imposed on municipalities by the Constitution and laws of the State of Alabama. No present or future official, officer, or employee of the City shall ever be personally liable for the performance of any obligations hereunder.

**H. Non-Discrimination.** Contractor agrees that it will not discriminate against any person on the basis of race, color, sex, religion, national origin, or age in performing the Work required under this Agreement. Contractor shall fully comply with the Americans with Disabilities Act, the Fair Labor Standards Act, and all other applicable laws and regulations.

**I. Fines and Penalties.** The Contractor shall be solely liable for any and all fines or penalties which may be levied by any governmental authority against the Owner or Contractor which are related to the Contractor's operations.

**J. Agreement Date, Counterparts.** This Agreement shall be effective as of the date it is executed by the parties. In the event the authorized signatures are affixed on different dates, the latter date of execution shall be the effective date. This instrument may be executed in no more than two (2) counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

**IN TESTIMONY WHEREOF,** the parties hereto have caused to be affixed the signatures of their duly authorized representatives on the dates set forth below.

**CITY OF MADISON, ALABAMA**  
**a municipal corporation**

**ATTEST:**

By: \_\_\_\_\_  
Paul Finley, Mayor

\_\_\_\_\_  
Lisa D. Thomas, City Clerk-Treasurer

Date: \_\_\_\_\_

**STATE OF ALABAMA** §  
§  
**COUNTY OF MADISON** §

I, the undersigned authority, as Notary Public in and for said County in said State, hereby certify that Paul Finley and Lisa D. Thomas, whose names as Mayor and the City Clerk-Treasurer of the City of Madison, Alabama, respectively, are signed to the foregoing instrument, and who are known to me, acknowledged before





05/09/23

City of Madison Parks and Recreation  
100 Hughes Road  
Madison, Alabama 35758  
Attn. Mr. Kory Alfred

Dear Mr. Alfred,

We are pleased to be able to offer a proposal for the installation of the lighting at **Dublin Soccer Field # 5**. We are in receipt of the bid package outlined earlier in the year and have used this for guidance in preparing the project pricing.

**A brief scope of work for the project is:**

Unload 4 owner provided light poles, fixtures with controls, store and then assemble the poles to set at each of the locations shown on the MUSCO plan. Install conduit and wire from control panel to each pole. Landscape as needed. **Per specifications a 240-volt single phase power source will be provided.**

Once permanent or temporary power is applied, **(not provided under this scope)** MUSCO will provide a survey to determine if the light levels are as planned or if adjustment is necessary.

**The price for the above scope is \$71,500.00.**

Let me know if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads 'Gary W Hogan'. The signature is written in a cursive style with a long, sweeping tail on the 'n'.

Gary W Hogan

Managing Owner