



# REGULAR CITY COUNCIL MEETING

Monday, September 11, 2023 at 7:00 PM

Pre- Meeting at 6:00 PM

Council Chamber | 1953 Municipal Way

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## AGENDA

### CALL TO ORDER

### PRAYER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

*Sophie Martin, Rick Ellis, Stacy Rakestraw, Greg Farrell, Jamie Cole, Zach Zahariadis, Kerri Pate*

### MINUTES APPROVAL

- [A.](#) 08-28-2023 Minutes - Regular City Council Meeting
- [B.](#) 09-07-2023 Minutes - Work Session City Council

### AGENDA APPROVAL

### MAYOR BRAKEFIELD COMMENTS/PROCLAMATIONS

- [C.](#) Constitution Week Proclamation 2023
- D. Honoring those lost on 911 with a moment of reflection.

### AGENDA ITEMS

\* Public Hearing on these Items      \*\* Set Public Hearing on these Items

- [1.](#) \*Resolution 091123 Assessing Weed Abatement Cost for 1046 Independence Ct  
Public hearing to assess the cost of weed abatement to 1046 Independence Ct, Alabaster.
- [2.](#) \*Resolution 091123-A Assessing Weed Abatement Cost for 98 Hickory Street  
Public hearing to assess the cost of weed abatement to 98 Hickory Street, Alabaster.
- [3.](#) Resolution 091123-B Adopt FY24 Budget  
Adoption of the Mayor's 2024 fiscal year budget.
- [4.](#) Resolution 091123-C Awarding Bid for Waste Water Pumps for the Environmental Services Department  
Awarding bid to Hydra Service in the amount of \$141,000, for waste water pumps for the Environmental Services Department..
- [5.](#) Resolution 091123-D Authorizing Agreement for Soft-Pak Route Management Application through Ingram Equipment Company  
Authorizing purchase of software and camera equipment for the Public Works Department, from Soft-Pak, through Ingram Equipment Company, for Garbage Route Management in the amount of \$19,485 up front and \$1,230 monthly.
- [6.](#) Resolution 091123-E Authorizing Agreement for 3rd Eye Connected Collections Hardware and Monitoring through Ingram Equipment Company

Authorizing an agreement with 3rd Eye for Garbage Collections Hardware and Monitoring, through the Ingram Equipment Company, in the amount of \$83,432.87 up front and \$890 monthly.

**7. Resolution 091123-F Setting Alabaster City Council Regularly Scheduled Meetings Beginning in November 2023**

Amending the Regular City Council Meeting time from 7:00 PM to 6:30 PM, with the pre-council remaining at 6:00 PM and still meeting on the 2nd and 4th Mondays of each month.

**8. \*Resolution 091123-G Authorizing Incentive Agreement with PC Sweet Home Bama, LLC - Michaels**

Public Hearing - Authorizing the Mayor to sign final agreement with PC Sweet Home Bama, LLC., for the Michaels located within the North Promenade Shopping Center.

**9. Resolution 091123-H Rescinding Resolution 071323-A and Authorizing Change Order for Resolution 071323 to Include Allowance for Purchase and Installation of Turf**

Rescinding Resolution 071323-A (Agreement with FieldTurf USA, INC) and authorizing a change order for Resolution 071323 to include an allowance for the purchase and installation of turf for the Veterans Park Improvement Project 2023.

**10. Resolution 091123-I ALDOT Right-of-Way Acquisition Agreement on SR-119 from CR-12 - Phase 2**

Authorizing ALDOT's Standard Project Resolution and Plans for the Hwy 119 Widening Project - Right-of-Way Acquisition Agreement - STPBH-0119( ) ALABASTER SR-119 From Silver Creek Pkwy to CR-12 Phase 2.

**11. Resolution 091123-J ALDOT Utility and Construction Agreement for SR-119 from CR-12 - Phase 2**

Authorizing ALDOT's Standard Project Resolution and Plans for the Hwy 119 Widening Project - Utility and Construction Agreement - STPBH-0119( ) ALABASTER SR-119 From Silver Creek Pkwy to CR-12 Phase 2.

**12. \*\*Resolution 102323 Affirming Recommendation of Fire Marshal to Abate Weeds at One Property**

Setting a public hearing for Monday, October 23, 2023, affirming the recommendation of the Fire Marshal to abate weeds at 220 Jasmine Drive, Alabaster, AL.

**PUBLIC COMMENTS**

*Please step to the podium and state your name and address for the record.*

**COUNCIL COMMENTS**

**WORK SESSION SCHEDULED FOR SEPTEMBER 21, 2023.**

**ADJOURN MEETING**

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In compliance with the Americans with Disabilities Act, those requiring accommodation for Council meetings should notify the City Clerk's Office at least 24 hours prior to the meeting by:

Calling Office Number: 205-664-6800  
Or Visit: <http://cityofalabaster.com/397/Americans-with-Disabilities-Act>



## MINUTES OF THE REGULAR CITY COUNCIL MEETING

Council Chamber | 1953 Municipal Way

Alabaster, AL

August 28, 2023

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### CALL TO ORDER

The meeting was called to order at 6:02 PM and the Council organized for the Regular City Council Meeting which started at 7:00 PM with Council President Sophie Martin presiding.

### PRAYER / PLEDGE OF ALLEGIANCE

### ROLL CALL

*Sophie Martin, Rick Ellis, Stacy Rakestraw, Greg Farrell, Jamie Cole, Zach Zahariadis, Kerri Pate*

#### PRESENT

Council Member - Ward 1 Sophie Martin  
Council Member - Ward 2 Rick Ellis  
Council Member - Ward 3 Stacy Rakestraw  
Council Member - Ward 5 Jamie Cole

#### ABSENT

Council Member - Ward 4 Greg Farrell  
Council Member - Ward 6 Zach Zahariadis  
Council Member - Ward 7 Kerri Pate

### MINUTES APPROVAL

Motion made by Council Member - Ward 3 Rakestraw, Seconded by Council Member - Ward 2 Ellis. Minutes approved.

- A. **08-14-2023 Minutes - Regular City Council Meeting**
- B. **08-24-2023 Minutes - Work Session City Council**

### AGENDA APPROVAL

Motion made by Council Member - Ward 5 Cole, Seconded by Council Member - Ward 3 Rakestraw. Agenda approved.

### MAYOR BRAKEFIELD COMMENTS/PROCLAMATIONS

- C. **Gynecological Cancer Awareness Month Proclamation**

Mayor Brakefield proclaimed September as Gynecologic Cancer Awareness Month and he presented the proclamation to Jatonia Dial with the Laura Crandall Brown Foundation.

### COUNCIL REPORTS

- D. **Library Monthly Report - July 2023** - Council Member Rick Ellis
- E. **Public Works Monthly Report - July 2023** - Council Member Stacy Rakestraw
- F. **AFD Monthly Report - July 2023** - Council Member Jamie Cole
- G. **APD Monthly Report - July 2023** - Council Member Jamie Cole
- H. **Engineering and Building Monthly Report - July 2023** - Council Member Stacy Rakestraw

**AGENDA ITEMS**

**\* Public Hearing on these Items      \*\* Set Public Hearing on these Items**

**1. Resolution 082823 Authorizing APPLE Agreement through RPCGB for Buck Creek Trail Extension Study**

Authorizing a Buck Creek Trail Extension APPLE Study Agreement between City of Alabaster and the Regional Planning Commission of Greater Birmingham in the amount not to exceed \$12,000.

Motion made by Council Member - Ward 2 Ellis, Seconded by Council Member - Ward 5 Cole. Voting Yea: Council Member - Ward 1 Martin, Council Member - Ward 2 Ellis, Council Member - Ward 3 Rakestraw, Council Member - Ward 5 Cole. Motion carried.

**2. Resolution 082823-A Authorizing Agreement with Osprey Initiative for Litter Gitter Device and Management**

Authorizing a one year agreement with Osprey Initiative (Osprey) to provide, operate, and maintain one (1) Litter Gitter and one (1) Litter Boom in the Cahaba River watershed on Buck Creek in the amount of \$24,000.

Motion made by Council Member - Ward 3 Rakestraw, Seconded by Council Member - Ward 2 Ellis. Voting Yea: Council Member - Ward 1 Martin, Council Member - Ward 2 Ellis, Council Member - Ward 3 Rakestraw, Council Member - Ward 5 Cole. Motion carried.

**3. Resolution 082823-B Authorizing a Professional Services Agreement with Poole and Co Architects - WWTP Renovation**

Authorizing a Professional Services Contract with Poole and Co Architects in the amount of \$267,300 for the Schematic Design and Construction Administration for renovations and additions to the WWTP Admin office.

Motion made by Council Member - Ward 2 Ellis, Seconded by Council Member - Ward 5 Cole. Voting Yea: Council Member - Ward 1 Martin, Council Member - Ward 2 Ellis, Council Member - Ward 3 Rakestraw, Council Member - Ward 5 Cole. Motion carried.

**4. Resolution 082823-C Authorizing Contract with Rivertree Systems**

Authorizing an Agreement renewal with Rivertree Systems Inc., for examination services.

Motion made by Council Member - Ward 5 Cole, Seconded by Council Member - Ward 3 Rakestraw. Motion carried.

**5. Resolution 082823-D Approving Issuance of ABC License - AG Taco Co LLC**

Approving a transfer request for a 020 Restaurant Retail Liquor License for AG Taco Co LLC., previously Joes Italian, located at 21 Weatherly Club Drive Alabaster, AL 35007.

Motion made by Council Member - Ward 5 Cole, Seconded by Council Member - Ward 3 Rakestraw. Motion carried.

**6. \*\*Resolution 091123 Assessing Weed Abatement Cost for 1046 Independence Ct**

Setting a public hearing for Monday, September 11. 2023 at 7:00 PM, to assess the cost of weed abatement to 1046 Independence Ct, Alabaster.

Motion made by Council Member - Ward 3 Rakestraw, Seconded by Council Member - Ellis. Motion carried.

**7. \*\*Resolution 091123-A Assessing Weed Abatement Cost for 98 Hickory Street**

Setting a public hearing for Monday, September 11. 2023 at 7:00 PM, to assess the cost of weed abatement to 98 Hickory Street, Alabaster.



Motion made by Council Member - Ward 2 Ellis, Seconded by Council Member - Ward 5 Cole. Motion carried.

**PUBLIC COMMENTS**

None

**COUNCIL COMMENTS**

None

**WORK SESSION SCHEDULED FOR SEPTEMBER 7, 2023, AT 6:00 PM**

**ADJOURN MEETING**

Motion made by Council Member - Ward 3 Rakestraw, Seconded by Council Member - Ward 5 Cole. Motion carried. Meeting adjourned at 7:14 PM.

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**J. Mark Frey, City Clerk**

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**Greg Farrell, Council President Pro Tem**



## MINUTES OF THE WORK SESSION CITY COUNCIL

Council Chambers | 1953 Municipal Way

Alabaster, AL

September 07, 2023

### CALL TO ORDER

City Council assembled for a Work Session and the meeting was called to order at 6:01 PM with Council President Sophie Martin presiding.

### ROLL CALL

*Sophie Martin, Rick Ellis, Stacy Rakestraw, Greg Farrell, Jamie Cole, Zach Zahariadis, Kerri Pate*

### PRESENT

Council Member - Ward 1 Sophie Martin  
 Council Member - Ward 2 Rick Ellis  
 Council Member - Ward 3 Stacy Rakestraw  
 Council Member - Ward 4 Greg Farrell  
 Council Member - Ward 5 Jamie Cole  
 Council Member - Ward 6 Zach Zahariadis  
 Council Member - Ward 7 Kerri Pate

### AGENDA ITEMS:

#### 1. Department Head Presentations

Brian Binzer - Administration  
 Patrick Johnson - IT  
 Fred Hawkins - Building & Engineering Services  
     - Environmental Services  
     - Facilities  
     - Public Works

#### 2. FY 2024 Budget Presentation

Second presentation to City Council of the Mayor's proposed fiscal year 2024 budget. Added to Monday's agenda.

#### 3. SoftPak Route Management Application and 3rd Eye Camera System

Review request to purchase software and camera equipment for the Public Works Department. Added to Monday's agenda.

#### 4. Review Bids Received for Wastewater Pumps

Consider bid received for waste water pumps for the Environmental Services Department. Added to Monday's agenda.

#### 5. Regular City Council Meeting Time - Discussion

Currently Regular City Council Meeting times are 6:00 PM for Pre-Council and 7:00 PM for the Regular Meeting. Consideration - amending the meeting time to 6:30 PM. This change will take place in November 2023. Added to Monday's agenda.

#### 6. Development Agreement for North Promenade/Michaels

Review final agreement for the Michaels located within the North Promenade Shopping Center. Added to Monday's agenda.

## 7. Council Appointments Needed

Council discussed needed appointments to fill unexpired terms for IDB, CDA and PBA.

## 8. Recommendation of Fire Marshal to Abate Weeds at Two Properties

REVIEW FOR MONDAY: Setting a public hearing for Monday, October 23, 2023, affirming the recommendation of the Fire Marshal to abate weeds at 205 Meadowlark Drive and 220 Jasmine Drive, Alabaster, AL. (\*\*Resolution 102323 Affirming Recommendation of Fire Marshal to Abate Weeds at Two Properties) Added to Monday's agenda.

## 9. \*Resolution 091123 Assessing Weed Abatement Cost for 1046 Independence Ct

A public hearing is set for September 11, 2023, at 7:00 PM, to assess the cost of weed abatement to 1046 Independence Ct, Alabaster. Added to Monday's agenda.

## 10. \*\*Resolution 091123-A Assessing Weed Abatement Cost for 98 Hickory Street

Setting a public hearing for Monday, September 11, 2023, at 7:00 PM, to assess the cost of weed abatement to 98 Hickory Street, Alabaster. Added to Monday's agenda.

## 11. Executive Session Relating to Preliminary Negotiations Involving Matters of Trade or Commerce

Alabama Code Title § 36-25A-7 (7) To discuss preliminary negotiations involving matters of trade or commerce in which the governmental body is in competition with private individuals or entities or other governmental bodies in Alabama or in other states or foreign nations or to discuss matters or information of the character defined or described in the Alabama Trade Secrets Act. Provided, however, that prior to such discussions a person involved in the recruitment or retention effort or who has personal knowledge that the discussion will involve matter or information of the character defined or described in the Alabama Trade Secrets Act advises the governmental body in writing or by oral declaration entered into the minutes that the discussions would have a detrimental effect upon the competitive position of a party to the negotiations or upon the location, retention, expansion, or upgrading of a public employee or business entity in the area served by the governmental body if disclosed outside of an executive session, or would disclose information protected by the Alabama Trade Secrets Act.

City Attorney, Jeff Brumlow confirmed that the reason for Executive Session was authorized under State Law. Council President Sophie Martin stated that the Council would not reconvene following the Executive Session.

Motion made by Council Member - Ward 5 Cole, Seconded by Council Member - Ward 3 Rakestraw. Voting Yea: Council Member - Ward 1 Martin, Council Member - Ward 2 Ellis, Council Member - Ward 3 Rakestraw, Council Member - Ward 4 Farrell, Council Member - Ward 5 Cole, Council Member - Ward 6 Zahariadis, Council Member - Ward 7 Pate. Motion carried. Council entered executive session at 8:26 PM

## ADJOURNMENT

Motion made by Council Member - Ward 7 Pate, Seconded by Council Member - Ward 2 Ellis. Motion carried. Executive Session ended and the Council Meeting was adjourned at 9:05 PM.

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J. Mark Frey, City Clerk

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Greg Farrell, Council President Pro Tem





OFFICE OF THE MAYOR

CITY OF ALABASTER

**PROCLAMATION**

**WHEREAS**, September 17, 2022, marks the two hundred thirty sixth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

**WHEREAS**, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary; and to the patriotic celebrations which will commemorate the occasion; and

**WHEREAS**, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week; and

**NOW, THEREFORE**, I, Scott Brakefield, Mayor of the City of Alabaster, Alabama, do hereby proclaim September 17<sup>th</sup> – 23<sup>rd</sup> 2023, as

**CONSTITUTION WEEK**

and ask our citizens to reaffirm the ideals the Framers of the constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.



WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Alabaster, Alabama to be affixed, this 30<sup>th</sup> day of August, 2023.

\_\_\_\_\_  
Mayor Scott Brakefield

ATTEST:

\_\_\_\_\_  
J. Mark Frey, City Clerk



Having been previously introduced during the **August 28, 2023**, Council Meeting, Council Member \_\_\_\_\_ introduced the following Resolution, which was seconded by Council Member \_\_\_\_\_.



**RESOLUTION 091123**

**RESOLUTION AUTHORIZING THE PLACEMENT OF LIEN  
ON PROPERTY LOCATED AT 1046 INDEPENDENCE CT**

**WHEREAS**, on **Monday July 25, 2023**, the Council, upon recommendation of the Fire Marshal and Code Enforcement, declared **1046 INDEPENDENCE CT., PIN # 138274002058.000, in the City of Alabaster, Alabama, Owner David Stroud**, to be a public nuisance; and,

**WHEREAS**, the Fire Marshal and Code Enforcement has made a report to the Council of the cost of abatement on said property in the total amount of **\$275.00** for the abatement of weeds; and,

**WHEREAS**, the Administration advised the Council that an additional cost of **\$376.79** for advertising, legal fees, recording fees and postage are associated with this abatement; and,

**NOW, THEREFORE, AFTER DUE CONSIDERATION, BE IT RESOLVED,**

1. That costs in the amount of **\$651.79** are hereby assessed against **1046 INDEPENDENCE CT., PIN # 138274002058.000, in the City of Alabaster, Alabama.**
2. That the Clerk is to hereby publish a copy of this resolution in the manner prescribed.
3. That the Clerk is hereby directed to mail a certified copy of this resolution by certified or registered mail to the person last assessed for ad valorem taxes on the property.
4. That the Clerk is hereby directed to file a certified copy of this resolution in the Probate Court of Shelby County, Alabama.

**ADOPTED AND APPROVED THIS 11TH DAY OF SEPTEMBER, 2023.**

ATTEST:

CITY OF ALABASTER, ALABAMA

\_\_\_\_\_  
J. Mark Frey, City Clerk

\_\_\_\_\_  
Greg Farrell, Council President Pro Tem

APPROVED:

\_\_\_\_\_  
Scott Brakefield, Mayor



Having been previously introduced during the **August 28, 2023**, Council Meeting, Council Member \_\_\_\_\_ introduced the following Resolution, which was seconded by Council Member \_\_\_\_\_.



**RESOLUTION 091123-A**

**RESOLUTION AUTHORIZING THE PLACEMENT OF LIEN  
ON PROPERTY LOCATED AT 98 HICKORY STREET**

**WHEREAS**, on **Monday July 25, 2023**, the Council, upon recommendation of the Fire Marshal and Code Enforcement, declared **98 HICKORY STREET., PIN # 23 2 04 0 001 077.001, in the City of Alabaster, Alabama, Owner Lopez Juan De Dios Chavez**, to be a public nuisance; and,

**WHEREAS**, the Fire Marshal and Code Enforcement has made a report to the Council of the cost of abatement on said property in the total amount of **\$1,200.00** for the abatement of weeds; and,

**WHEREAS**, the Administration advised the Council that an additional cost of **\$376.79** for advertising, legal fees, recording fees and postage are associated with this abatement; and,

**NOW, THEREFORE, AFTER DUE CONSIDERATION, BE IT RESOLVED,**

1. That costs in the amount of **\$1,576.79** are hereby assessed against **98 HICKORY STREET., PIN # 23 2 04 0 001 077.001 in the City of Alabaster, Alabama.**
2. That the Clerk is to hereby publish a copy of this resolution in the manner prescribed.
3. That the Clerk is hereby directed to mail a certified copy of this resolution by certified or registered mail to the person last assessed for ad valorem taxes on the property.
4. That the Clerk is hereby directed to file a certified copy of this resolution in the Probate Court of Shelby County, Alabama.

**ADOPTED AND APPROVED THIS 11TH DAY OF SEPTEMBER, 2023.**

ATTEST:

CITY OF ALABASTER, ALABAMA

\_\_\_\_\_  
J. Mark Frey, City Clerk

\_\_\_\_\_  
Greg Farrell, Council President Pro Tem

APPROVED:

\_\_\_\_\_  
Scott Brakefield, Mayor









Timothy J. Love  
Fire Chief

Thomas J. Lamb  
Fire Marshal



Scott Brakefield  
Mayor

Brian Binzer  
City Administrator

Fire Department  
Public Safety Division

**Report of Abatement Cost**

To: Honorable Sophie Martin, City Council President, Alabaster City Council Pursuant to Ordinance No: 20-100 of the Code of Ordinances of the City of Alabaster, Alabama, Code Enforcement of the City of Alabaster, Alabama contracted with Steven’s Wack n Sack as ordered in Resolution 072423 on July 24<sup>th</sup>, 2023 and is hereby providing an itemized report of the cost of removal of the nuisance located at **98 Hickory Street / PIN 23 2 04 0 001 077.001 owned by Lopez Juan De Dios Chavez:**

- 1. The weeds were abated on August 14<sup>th</sup> 2023.
- 2. The costs expended by the City of Alabaster were as follows:

Abatement Cost	\$ 1200.00
Legal Fees	\$ 250.00
Legal Notice	\$ 118.69
Postage	\$ 8.10
<b>TOTAL</b>	<b>\$ 1576.79</b>

- 3. We have found the costs reasonable under the circumstances and hereby recommend that these costs be attached as an Assessment and lien to the Property and collected pursuant to the fullest extent of the law.

Done this the 15<sup>th</sup> day of August, 2023.

Thomas J. Lamb, Fire Marshal

ATTEST: \_\_\_\_\_  
J. Mark Frey, City Clerk

*Smoke Alarms Save Lives!*

1953 Municipal Way, Suite 102 • Alabaster • Alabama 35007  
Phone 205-664-6823 • Fax 205-664-6841 • tlamb@alabasterfire.org

Timothy J. Love  
Fire Chief

Thomas J. Lamb  
Fire Marshal



Scott Brakefield  
Mayor

Brian Binzer  
City Administrator

Fire Department  
Public Safety Division



*Smoke Alarms Save Lives!*

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## STAFF REPORT

City of Alabaster

1953 Municipal Way

Alabaster, AL 35007

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**Submitted By: Thomas Lamb**

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**Council Meeting Date: 8/24/2023**

**Agenda Item Description: Abatement Cost Report**

**Agenda Item Requestor: Thomas Lamb**

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**Summary/Background: Cost report for:**

**98 Hickory Street**

**1046 Independence Court**

**Financial Impact:**

(Memo from Finance Dir.)

**Recommended  
Council Actions:**

**Attachments:**

**Next Steps/Schedule:**



Council Member \_\_\_\_\_ introduced the following Resolution, which was seconded by Council Member \_\_\_\_\_.



**RESOLUTION 091123-B**

**A RESOLUTION ADOPTING THE CITY OF ALABASTER FISCAL YEAR 2024 BUDGET**

**WHEREAS**, the Mayor has presented the Proposed Budget for Fiscal Year 2024 to the City Council of the City of Alabaster, Alabama; and

**WHEREAS**, the City Council held various budget work sessions with careful consideration on FY24 budget; and

**WHEREAS**, Alabama Code Section 11-43-57 requires that the City Council appropriate funds for the various departments for use in the upcoming fiscal year.

**NOW THEREFORE, BE IT RESOLVED:**

1. That all purchases of the City shall be properly charged to the department and line item authorizing same and the Treasurer and Mayor are authorized to draw and pay such items so properly charged.
2. That the City Council of the City of Alabaster, does hereby adopt the Fiscal Year 2024 Budget (see attachment) as proposed by Scott Brakefield, Mayor of the City of Alabaster.

	Y / N		Y / N
Sophie Martin	_____	Jamie Cole	_____
Rick Ellis	_____	Zach Zahariadis	_____
Stacy Rakestraw	_____	Kerri Pate	_____
Greg Farrell	_____		

**ADOPTED AND APPROVED THIS 11TH DAY OF SEPTEMBER 2023.**

ATTEST:

CITY OF ALABASTER

\_\_\_\_\_  
J. Mark Frey, City Clerk

\_\_\_\_\_  
Greg Farrell, Council President Pro Tem

APPROVED:

\_\_\_\_\_  
Scott Brakefield, Mayor

Exhibit A

	Governmental Funds				Proprietary Funds			Total All Funds
	General Fund	Capital Projects Fund	Debt Service Fund	Public Building Authority	Non-major Governmental Funds	Sewer Fund	Garbage Fund	
<b>Revenues</b>								
Sales and use taxes	\$ 38,957,225							\$ 38,957,225
Property taxes	5,846,500							5,846,500
Other taxes	1,921,000				380,000			2,301,000
Licenses and permits	5,653,500							5,653,500
Fines and forfeitures	413,500				92,000			505,500
Charges for services	351,000					7,703,750	2,585,750	10,640,500
Other revenues	2,006,350	320,000	50,000	750	33,750	100,000	3,000	2,513,850
<b>Total revenues</b>	55,149,075	320,000	50,000	750	505,750	7,803,750	2,588,750	66,418,075
<b>Other financing sources</b>								
Transfer in from other funds	319,400	4,691,739	4,648,545	799,550				10,459,234
<b>Total revenues and other sources</b>	55,468,475	5,011,739	4,698,545	800,300	505,750	7,803,750	2,588,750	76,877,309
<b>Expenditures</b>								
Personnel	24,019,687					2,026,497	959,762	27,005,946
Operating	10,133,110	2,350,000			102,100	2,550,955	1,217,200	16,353,365
Debt service	370,000		4,806,884	792,885		2,514,100		8,483,869
Capital outlay	3,446,759	19,990,750				8,043,000	1,009,593	32,490,102
Alabaster City Schools	7,239,085							7,239,085
<b>Total expenditures</b>	45,208,641	22,340,750	4,806,884	792,885	102,100	15,134,552	3,186,555	91,572,366
<b>Other financing uses</b>								
Transfers out to other funds	9,759,834				472,600		226,800	10,459,234
<b>Total expenditures and other uses</b>	54,968,475	22,340,750	4,806,884	792,885	574,700	15,134,552	3,413,355	102,031,600
<b>Increase (decrease) in fund balance (modified accrual)</b>	\$ 500,000	\$ (17,329,011)	\$ (108,339)	\$ 7,415	\$ (68,950)	\$ (7,330,802)	\$ (824,605)	\$ (25,154,291)

Exhibit B

Department	Total Budgeted Expenditures
Non - Departmental	\$ 17,511,419.00
Administration	\$ 1,932,800.00
I.T.	\$ 1,904,426.00
Library	\$ 1,015,715.00
Police	\$ 11,859,746.00
Court	\$ 652,145.00
Fire	\$ 9,861,648.00
Public Works	\$ 2,773,466.00
Parks & Recreation	\$ 3,979,685.00
Finance	\$ 867,838.00
Elected Officials	\$ 368,635.00
Human Resources	\$ 589,291.00
Engineering & Building Services	\$ 1,651,661.00
<b>Total General Fund Departments</b>	\$ 54,968,475.00



## **Fiscal Year 2024 Budget Highlights**

- 3% cost-of-living adjustment for all employees effective on the first day of the budget year.
- City paid portion of employee health insurance increased from 80% to 90% of total cost.
- \$650k to provide enhanced ambulance transportation.
- 3 new full-time police officer positions added.
- \$600k to install traffic signals at the entrances to Veterans Park & Patriots Park.
- \$6.0M to construct a new amphitheater at the City Hall greenspace.
- \$1.0M to expand the Senior Center.
- \$3.0M to complete Veterans Park improvements (turfing baseball fields, pickleball courts, new playground equipment).
- \$4.5M to complete renovation of Jim “Peanut” Davenport baseball field.
- \$1.0M to complete renovations of Larry Simmons field.
- \$1.6M to complete trail project between Thompson High School and Thompson Middle School.
- \$672k for a new pumper truck for the Fire Department.
- \$100k to replace the playground equipment at Warrior Park.
- \$760k for 10 new patrol vehicles for the Police Department.
- \$8.0M of capital improvements to the sewer system.
- \$1.0M for garbage vehicle replacements.
- \$120k of funding for the Alabaster Arts Council.
- \$7.24M of sales tax remitted to Alabaster City Schools.

Council Member \_\_\_\_\_ introduced the following Resolution, which was seconded by Council Member \_\_\_\_\_.

Item #4.



**RESOLUTION 091123-C**

**AWARDING THE BID FOR WASTE WATER PUMPS TO HYDRA SERVICE**

**WHEREAS**, the Mayor and City Council wish to provide adequate and efficient equipment for our Environmental Services Department to enable them to serve our citizens, and;

**WHEREAS**, these pumps are needed to maintain service within our collection system, and;

**WHEREAS**, a bid opening was held on September 6, 2023, at 10:00 am and the following bid was received:

- **Hydra Service** **\$141,000**

**NOW THEREFORE, BE IT RESOLVED, AS FOLLOWS:**

- 1) Upon the recommendation of city staff, the City Council awards the bid to Hydra Service and authorizes the purchase of thirteen (13) wastewater pumps at a cost not to exceed \$141,000.
- 2) That the Mayor and City Clerk are authorized to execute and attest any related, and necessary documents on behalf of the City for said purchase.

	Y / N		Y / N
Sophie Martin	_____	Jamie Cole	_____
Rick Ellis	_____	Zach Zahariadis	_____
Stacy Rakestraw	_____	Kerri Pate	_____
Greg Farrell	_____		

**ADOPTED AND APPROVED THIS 11TH DAY OF SEPTEMBER 2023.**

ATTEST:

CITY OF ALABASTER

\_\_\_\_\_  
J. Mark Frey, City Clerk

\_\_\_\_\_  
Greg Farrell, Council President Pro Tem

APPROVED:

\_\_\_\_\_  
Scott Brakefield, Mayor





# STAFF REPORT

City of Alabaster

1953 Municipal Way

Alabaster, AL 35007

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**Submitted By:**

Fred Hawkins

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**Council Meeting Date: 09-07-2023**

**Agenda Item Description: Recommendation Pump Bid**

**Agenda Item Requestor:**

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**Summary/Background:**

See attached pump bid. 13 pumps. \$141,100. Hydra Service was the only bidder. The prices are good in my opinion. I would like to recommend we award this bid and move forward with the purchase.

**Financial Impact:**

(Memo from Finance Dir.)

**Recommended  
Council Actions:**

**Attachments:**

**Next Steps/Schedule:**



Environmental Services Department  
 WW Pumps (2023)– Unit Bid

September 6, 2023, 10:00 AM

Bid Opening – Sign In Sheet / Bid Tabulation

Name	Present – Yes / No	Vendor / Company	Bid Amount	Notes
John Warner	yes	Hydra Services	\$ 141,100	Hydra Services is The only Bidder
Troy Doyle	yes	Hydra Services		

Item #4.



**CITY OF ALABASTER**

1953 Municipal Way, Ste. 201  
Alabaster, Alabama 35007

**OFFICE OF PURCHASING AGENT**

**Request for Bids - Submersible Non-Clog Wastewater Pumps**

Bid Request Posted this Date: Sunday, August 20, 2023

Bid Request to be opened this Date & Time: Wednesday, September 6, 2023, 10:00 AM

To Whom It May Concern:

Bids shall be sealed and delivered to the **Office of the City Clerk at City Hall**, City of Alabaster, located at 1953 Municipal Way, Alabaster, Alabama prior to the above specified date and time. Bids shall be publicly opened at the date and time specified above or as soon as practicable thereafter.

***To be considered by the City, a bid must comply with Alabama law, including, but not limited to, Ala. Code (1975) §§41-16-50 et seq. and 31-13-1 et seq., and provide documentation of enrollment in the E-Verify program pursuant to Ala. Code §31-13-9.***

All bidders **must** use the bid form provided by the City for the project. This Bid Cover Sheet should be completed and submitted with the bid. Bids completed in pencil will not be accepted. Bids should be clearly marked **“SEALED BID”** and indicate on the outside of the envelope the project for which the bid is submitted and the date of bid opening, i.e. **“Submersible Non-Clog Wastewater Pumps Wednesday, September 6, 2023, 10:00 AM** The City reserves the right to utilize life cycle cost analysis in determining the lowest responsible bidder, in which case specific information shall be provided with the request for bids.

**The City reserves the right to accept or reject any or all bids and to waive formalities.**

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J. Mark Frey, City Clerk

**BID SUMMARY SHEET:**

**BIDDER** Hydra Service, Inc.

**BID ITEM** Submersible Non-Clog Wastewater Pumps

**TELEPHONE** 205-647-5326

**ADDRESS** P.O. Box 365, 2104 Hwy 160


**EMAIL** john@hydraservice.net

**CITY** Warrior    **STATE** AL    **ZIP** 35180

**BID AMOUNT – Unit A (AS PER SPECIFICATIONS)**      \$ 141,100.00

**Note: MUNICIPALITIES ARE EXEMPT FROM STATE SALES TAX**

*This bid must be signed below by bidder’s principal/officer/agent and notarized:*

<p>Auth. Signature: <u></u></p> <p>Name: <u>F.J. Doyle, II</u></p> <p>Title: <u>President</u></p>	<p>Sworn to and subscribed before me on this <u>5th</u> day of <u>September</u>, 2023.</p> <hr/> <p>Notary Public <u>Elizabeth A. Schubert</u></p> <p>My Commission Expires: <u>8/25/27</u></p>
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**REQUEST FOR BID**

The Environmental Services Department of the City of Alabaster is requesting and currently accepting bids for **Wastewater Pumps – Unit A with attachment**.

Requirements AND qualifications for bidding are set out in **Appendix A**.

The City will accept qualified bids on the following:

**Wastewater Pumps – Unit A with attachment**

**Contact Information:**

Please direct any questions regarding this RFB to:

City of Alabaster  
Environmental Services Department  
Attn: Fred Hawkins  
104 8<sup>th</sup> Ave NW  
Alabaster, AL, 35007  
Email: [fhawkins@cityofalabaster.com](mailto:fhawkins@cityofalabaster.com)  
Phone: 205-937-0056

**Bid Due Date:**

All Bids must be received, in hard copy, at City of Alabaster, Attn: J. Mark Frey, 1953 Municipal Way, Ste. 201, Alabaster, AL, 35007 by Wednesday, September 6, 2023, 10:00 AM.

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                  **Appendix C – Current Lift Station Information**

## **Section One: Instructions**

### **General Expectations**

All bids shall be legibly typed and comply in all regards with the requirements of this RFB.

All Bids must be signed in ink in the blank spaces provided herein. If a firm or partnership makes the Bid, the name and address of the firm or partnership shall be shown together with the names and addresses of the members. If a corporation makes the Bid, an authorized official must sign it in the name of said corporation.

Sealed Bids must be submitted, bearing on the outside the **name and address of the proposing party, the name of the project for which the Bid is submitted and the time and date of the Bid opening.** If the Bid is forwarded by mail, the Bid must be enclosed in a sealed package addressed to:

**City of Alabaster, Attn: J. Mark Frey, 1953 Municipal Way, Ste. 201, Alabaster, AL, 35007.**

The City of Alabaster reserves the right to solicit additional information or Bid clarification from vendors, or any one vendor, should the City deem such information necessary.

The City of Alabaster reserves the right to reject any and all proposals/bids, to waive informalities or irregularities in the Bid submission process, and to negotiate further with any proposing parties. Any disputes, or interpretations, will be resolved by the City of Alabaster and will be final.

There are specific qualifications for pump suppliers in section **6.0 PUMP SUPPLIER QUALIFICATIONS** located in **appendix A.** These must be met to be considered a responsive bidder.

Any material supplied by a Proposing Party that may be considered confidential, to the extent it is allowed under Public Records Law, must be so marked with statutory exemption asserted.

### **Terms of Contract**

The City reserves the right to reject any and all proposals/bids which are inconsistent with regards to product, installation, service, maintenance, experience and compliance to specifications. The City accepts no responsibility for expenses incurred in the Bid preparation and presentation. Such expense is to be borne exclusively by the proposing party.

### **Completion:**

Date of completion must be shown in bid. The guaranteed date of completion, at the discretion of the City of Alabaster, may be taken into consideration in making the award.

### **Schedule**

Requests for Bid opening will be at Wednesday, September 6, 2023, 10:00 AM, or as soon as practicable thereafter. All submitted packets must arrive at **City of Alabaster, Attn: J. Mark Frey, 1953 Municipal Way, Ste. 201, Alabaster, AL, 35007**, prior to this time in order to be considered. **Bids must arrive in a sealed and clearly labeled enclosure.**

### **Copies Required**

Each Bid must include one (1) digital copy (thumb drive), one (1) signed original and two (2) hard copies.

### **Official Contact**

Bids are due no later than Wednesday, September 6, 2023, 10:00 AM. Each Bid should be sealed and addressed to:

**City of Alabaster, Attn: J. Mark Frey, 1953 Municipal Way, Ste. 201, Alabaster, AL, 35007**

Any questions should be directed to:

**City of Alabaster – Environmental Services Department, Attn: Fred Hawkins, 104 8<sup>th</sup> Ave NW, Alabaster, AL, 35007, 205-664-6825 or via email at [fhawkins@cityofalabaster.com](mailto:fhawkins@cityofalabaster.com).** It is the responsibility of the bidder to ensure proper receipt of any electronic or phone correspondence, a **minimum of 24 business hours** is required to provide response.

## **Section Two: Selection Process**

### **Selection Committee**

The review and selection of **valid and on-time Bids** will be done by a committee consisting of, but not limited to, the Environmental Services Director or representative thereof, City Clerk or representative thereof, and the Mayor. The City Attorney may be included if specific questions of legality arise in the selection committee. The committee will make a recommendation indicating the lowest responsible, responsive bidder to the City Council who will then approve City Staff to commence final contract negotiations and contract execution, or reject the bids.

### **Withdrawal**

A Bid already received may be withdrawn from consideration by the City of Alabaster only if the proposing party furnishes the City with a written notice that the Bid is withdrawn prior to the time stated for the opening of the Bids.



**Section Three: Request for Bid Form**

**Bid Response Cover Submittal  
(Must Accompany All Bids)**

Submitted By: **Hydra Service, Inc.**

Contact / Company: **John Warren/Hydra Service, Inc.**

Bid Item: **Submersible Non-Clog Wastewater Pumps – Unit A**

Address: **P.O. Box 365, 2104 Hwy 160**

Daytime Phone: **(205) 647-5326**

Fax: **(205) 647-7449**

Email: **john@hydraservice.net**

Date: **9-5-2023**

The undersigned, through the formal submittal of this bid response, declares that they have examined all related Bid documents and read the instruction and conditions and hereby proposes to complete all work in accordance with the Bid documents herein.

The Proposing party, by their signature below, hereby represents as follows:

(a) That no Councilmember, official, officer, agency or employee of the City of Alabaster is financially interested directly or indirectly in this Bid or the compensation to be paid hereunder, and that no representation, statement or statements, oral or in writing, of the City, its Council, officers, agents, or employees had induced them to enter into this Bid and the papers made a part hereof by its terms;

(b) That this Bid is made without connection with any person, firm or corporation submitting a Bid for the same service, and is in all respects, fair and without collusion or fraud.

The names of the principal contacts of the organization submitting this Bid, or of the partnership, or of all persons interested in this Bid as principals are as follows:

Name Title

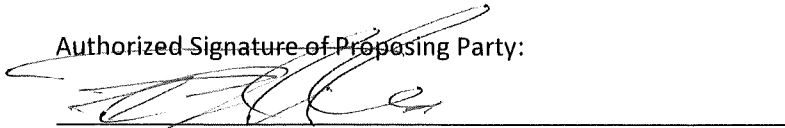
(If Sole Proprietor or Partnership)

In witness, hereto, the undersigned has set his / her (its) hand this 5th day of September, 2023.

Name of Firm:

Hydra Service, Inc.

Authorized Signature of Proposing Party:



(If Corporation)

In witness, whereof, the undersigned corporation has caused this instrument to be executed by its duly authorized officers this 5th day of September, 2023.

Name of Corporation: **Hydra Service, Inc.**

By: **F.J. Doyle, II**

Title: **President**

**BID RESPONSE FORM**

**Bids should be presented in substantially the following format:**

**BID RESPONSE**

Submitted By: **Hydra Service, Inc**

Contact / Company: **John Warren/Hydra Service, Inc.**

Item Bid: **Submersible Non-Clog Wastewater Pumps**

Address: **P.O. Box 365, 2104 Hwy 160**

Daytime Phone **(205) 647-5326**

Fax: **(205) 647-7449**

Email: **john@hydraservice.net**

Date: **9-5-2023**

The undersigned, through the formal submittal of this proposal / bid response, declares that they have examined all related Bid documents and read the instruction and conditions, and hereby proposes to supply requested services for the abatement of said structure(s) (as specified), in accordance with the Bid documents herein.

The Proposing party, by their signature below, hereby represents as follows:

- (a) That no Councilmember, official, officer, agency or employee of the City of Alabaster is financially interested directly or indirectly in this Bid or the compensation to be paid hereunder, and that no representation, statement or statements, oral or in writing, of the City, its Council, officers, agents, or employees had induced them to enter into this Bid and the papers made a part hereof by its terms;
- (b) That this Bid is made without connection with any person, firm or corporation submitting a Bid for the same service, and is in all respects, fair and without collusion or fraud.

The names of the principal contacts of the organization submitting this Bid, or of the partnership, or of all persons interested in this Bid as principals are as follows:

Name Title \_\_\_\_\_

Name Title \_\_\_\_\_

(If Sole Proprietor or Partnership)

In witness, hereto, the undersigned has set his (its) hand this 5th day of September, 2023.



*Hydra Service, Inc.*

**SPECIALIST IN FLUID MOVEMENT**

***City of Alabaster – Submersible Non-Clog Wastewater Pumps – Bid***

### **2.a. Credentials:**

Hydra Service, Inc. is a southern-based corporation that started in the basement of its founder, F. J. Doyle II, in 1982. Today, HSI has grown into a multi-million-dollar operation, with 7 professional facilities serving as a specialist in fluid movement for Alabama, Mississippi, Georgia, and Florida.

Our sales division specializes in industrial, mining, and municipal pumps. Hydra Service, Inc. has 15 highly-trained sales personnel with various degrees in engineering, business, and marketing. All of our personnel continually update knowledge and skills through various manufacturer training schools and workshops. With an in-stock inventory of over \$4 million, Hydra Service Inc. can offer its customers immediate response to various part needs. Our extensive inventory includes pipe, pumps, panels, and a multitude of other parts to meet your fluid movement needs and are available at all of HSI's sites—Central Alabama, Lower Alabama/Florida Panhandle, Florida, and Mississippi. We are a full-service pump and process equipment distributor, providing service and quality equipment—for purchase or rental—at competitive prices.

Hydra Service, Inc. has over 65,000 sq. ft. of repair facilities which include a pump repair shop, an electric motor & rewind shop, a machine shop, and test tanks. Additionally, we have our own fleet of fully-equipped service trucks, complete with cranes, and a service department of 29 technicians, on call 24 hours a day, available to support our product line and customers' various application/jobsite needs.

### **2.b. References:**

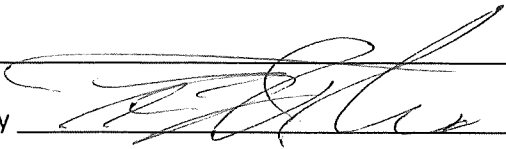
City of Huntsville – Jared Marshall: 256-883-3719

Jefferson County – Ken Bennett: 205-368-2615

Tuscaloosa County – 1.) Steven Shaw: 205-331-9423

2.) Ethan Hicks: 205-872-6693

Name of Firm Hydra Service, Inc.

Authorized Signature of Proposing Party 

(If Corporation)

In witness, whereof, the undersigned corporation has caused this instrument to be executed by its duly authorized officers this 5th day of September, 2023.

Name of Corporation: **Hydra Service, Inc.**

By: **F.J. Doyle, II**

Title: **President**

Please answer the following questions regarding your organization and Bid. Please be as specific as possible, this is in addition to anything specifically requested within Appendix A.

**1. Bid Response Form**

**2. Credentials:**

a. In one page or less, describe and explain your organization.

b. Please list three **(3) references and their contact information**, that you have similar contracts with or have served and include dates of service. Additionally, please ensure that of those, two (2) references are from government, public or nonprofit organizations. The City of Alabaster reserves the right to contact any and all references listed as well as any other entities that your organization does business with.

**3. Pricing Information:** Please use the form attached to the bid package to indicate your bid.

**4. Expectations the Proposing Party would have for the City of Alabaster:** Please outline any and all expectations, being as specific as possible, your organization would have for the City of Alabaster should your Bid be chosen.

**5. Any additional information in which the proposing party could enhance their efforts to be the successful vendor:** Indicate any additional areas, offers or services that would prove to be of benefit to the City of Alabaster and enhance your Bid. This may include additional services your organization offers.

**6. Compliance:** The Successful Bidder(s) must comply with all local, state and federal laws.

**Section Four: Scoring Criteria**

Pricing in conformity to requested product /services	100 Points
Specifications in conformity to requested bid	100 Points
References	100 Points

**Section Five: RFB Advertisement**

Direct Delivered to:

**Jim House Associates  
Pump & Process  
Hydra Service**

Newspaper Advertisement

Shelby County Reporter/Alabaster Reporter

The City of Alabaster is currently accepting bids for Wastewater Pumps (Unit A and attachment) and Electrical Pump Control Panel (Unit B). The city will be accepting bids that conform to the specifications set out in the bid packet, available online.

Bids are due no later than Wednesday, September 6, 2023, 10:00 AM, at City of Alabaster, Attn: J. Mark Frey, 1953 Municipal Way, Ste. 201, Alabaster, AL, 35007. Interested parties can obtain bid packets online and further information from the City of Alabaster Environmental Services Department by calling 205-664-6825 or emailing [fhawkins@cityofalabaster.com](mailto:fhawkins@cityofalabaster.com) or visiting <http://www.cityofalabaster.com>

**Section Six: Specifications:****APPENDIX A****DETAILED REQUIREMENTS CHECKLIST**

The following specifications are being provided to potential bidders as guidelines which describe the minimum type and quality of equipment the City of Alabaster is requiring. The Bidder must indicate compliance or list exceptions to each specification item for consideration and/or acceptance. **Failure** to comply with this provision shall be cause for rejection of the bid as non-responsive.

Line Ref #	DETAILED REQUIREMENTS	Compliant?	
		Yes	No
	<b>1.0 GENERAL SYSTEM DESCRIPTIONS</b>		
1	A. Supply one (1) non-clog submersible wastewater pump, adapter bracket if needed and associated equipment for the Lift Stations as shown in Appendix E, capable of handling raw, unscreened sewage and meeting the performance requirements for each station: See Appendix E for duty points.	✓	
2	Manufacturers: Subject to compliance with requirements, provide products by one of the following: (a). SULZER (b). Flygt (c). Approved Equal	✓	
3	Each motor shall be supplied with forty-nine (49) feet of properly sized electric submersible cable sized in accordance with NEC & CSA standards.	✓	
4	The pump, with its appurtenances and cable, shall be capable of continuous submergence underwater without loss of watertight integrity to a depth of sixty-five (65) feet.	✓	
5	Each pump shall be fitted with stainless-steel lifting chain.	✓	
6	Referenced Standards: (a). American Iron & Steel Institute (AISI) (b). American Society for Testing and Materials (ASTM) (c). Factory Mutual (FM) (d). Hydraulic Institute Standards for Centrifugal, Rotary, and Recip. Pumps (HI) (e). National Fire Protection Association (NFPA) (f). National Electric Code (NEC) (g). National Electrical Manufacturers Association (NEMA) (h). Anti-Friction Bearing Manufacturers Association (AFBMA)	✓	
	<b>1.1 PUMP WARRANTY</b>		
7	The pump manufacturer shall warrant the pump and motor to the Owner against defects in workmanship and materials for a period of five (5) years (parts and labor) under normal use and service for municipal wastewater applications. Warranty shall not be limited to hours.	✓	
8	The pump manufacturer warranties shall be in published form with the effective warranty start date stated within.	✓	
9	A copy of each warranty shall be provided to the Owner at startup.	✓	
	<b>1.2 PUMP DESIGN</b>		
10	The pump's design shall allow for removal and reinstallation of the pump without the need for personnel to enter the confined space of the wet well and without the removal of bolts, nuts, or other fasteners.	✓	

Line Ref #	DETAILED REQUIREMENTS	Compliant?	
		Yes	No
11	Each of the submersible pumps shall have upper and lower dual guide rail brackets to hold at a minimum 2" stainless steel pipe. No cable rail systems will be accepted. (If needed)	✓	
12	Final connection shall insure zero leakage between the pump and its discharge connection flange by means of an O-ring seal.	✓	
13	No part of the pump shall bear directly on the floor of the wet well.	✓	
14	The supplier shall provide 304 S.S. lifting chain or cable of sufficient length to properly and safely lift the pumps from the wet well. Note: The wet well depths of each lift station have not been provided. It is assumed 20ft lifting chains will be sufficient length to properly/safely lift the pumps.	✓	
	<b>1.3 PUMP CONSTRUCTION</b>		
15	Each of the submersible pumps are to have base 90's fitted for specific pump. Note: The previous base elbows are to be reused for the new pumps.	✓	
16	Major components (pump casting, impeller, intermediate housing, motor housing) shall be of a minimum ASTM A48 Class 40B cast iron with smooth surfaces devoid of blowholes and other irregularities.	✓	
17	All exposed fasteners shall be ASTM A 276 Type 316Ti stainless steel.	✓	
18	The pump shall be coated with a two-component epoxy finish having at minimum 83% solids by volume.	✓	
19	The coating shall be non-toxic and approved by both wastewater and water applications.	✓	
	<b>1.4 COOLING SYSTEM</b>		
20	Mating services between components where watertight integrity is critical shall be machined and fitted with nitrile rubber or Viton O-rings. Because these are critical passages and flame paths, no secondary sealing compounds, greases, or other devices shall be used.	✓	
21	The motor of the pump shall be air filled. Oil filled motors shall not be used, unless the pump is installed in a dry pit.	✓	
	<b>1.5 CABLE AND CABLE ENTRY SEAL</b>		
22	The power cable shall be suitable for the submersible application and sized in accordance with NEC requirements.	✓	
23	The cable entry shall consist of a grommet compressed by two stainless steel washers with strain relief being supplied as part of the entry design.	✓	
24	The cable entry design shall then ensure that no entry of moisture is possible into the high-voltage motor terminal area even if the cable is damaged or severed below water level to a submerged depth of up to ( 65 ) feet.	✓	
25	The pump shall have installed a separate moisture sensor mounted in the terminal area to shut the pump down should moisture approach the high voltage terminal area.	✓	
	<b>1.6 MOTOR</b>		
26	The submersible motor shall be NEMA IE3 Premium Efficiency type, squirrel cage, induction in design, housed in a completely watertight and air-filled chamber. Oil filled motors will not be considered by the Owner	✓	



Line Ref #	DETAILED REQUIREMENTS	Compliant?	
		Yes	No
27	The motor shall have at a minimum a 1.3 service factor and be suitable for use in Class I, Division 1, Group C & D atmospheres as Explosion Proof.	✓	
28	The motor stator shall use at minimum Class H insulation rated for 356°F.	✓	
29	The motors shall be designed, rated, and warranted for continuous operation and capable of at minimum fifteen (15) starts per hour.	✓	
30	Temperature monitors shall be embedded in the motor windings for use in conjunction with and supplemental to external motor overload protection.	✓	
31	The pump's control shall shut down the pump should any of the monitors detect high temperature and automatically reset once motor temperature returns to normal.	✓	
32	Supplier shall not provide motors that contain other than ecologically safe paraffin base oil in the seal chamber.	✓	
33	Supplier shall not provide motors containing di-electric oils used for motor cooling and/or bearing lubrication.	✓	
34	Thermal Protection: Each phase of the motor shall contain a bi-metallic temperature monitor in the upper portion of the stator windings. These thermal switches shall be connected in series and set to open at 140° C +/- 5° C. They shall be connected to the control panel, and used in conjunction with, and supplemental to, external motor overload protection. For pumps greater than 100 HP an option, bi-metallic temperature switches shall be available for the upper and lower bearings, and RTD type temperature measuring devices shall be available for the motor winding and bearings.	✓	
35	Seal Failure Early Warning System: An electrical probe shall be provided in a moisture sensing chamber for detecting the presence of water. A solid-state device mounted in the pump control panel or in a separate enclosure shall send a low voltage, low amperage signal to the probe. If, due to a mechanical seal failure, water enters the sensing chamber, the probe shall signal a solid-state relay in the control panel. The relay shall then energize a warning device in the control panel or cause the pump to be shut down (optional). Systems utilizing float switches, dual probes, or any other monitoring devices located solely in the stator housing are not considered to be early warning systems and shall not be considered equal. The moisture sensing chamber shall have a drain/inspection plug with a positive anti-leak seal which is easily accessible from the outside of the pump.	✓	
	<b>1.7 BEARINGS</b>		
36	Furnish upper and lower bearings as needed to provide a L10 bearing life of at minimum 50,000 hours at flows ranging from ½ of BEP flow to 1½ times BEP flow (BEP is best efficiency point).	✓	
37	The bearings shall be sealed/shielded permanently lubricated for the life of the pump bearings. Bearings should be shielded for 100 HP or larger pumps.	✓	

Line Ref #	DETAILED REQUIREMENTS	Compliant?	
		Yes	No
	<b>1.8 MECHANICAL SEALS</b>		
38	Each pump shall be equipped with a tandem mechanical shaft seal system consisting of two totally independent mechanical seal assemblies, plus a radial lip seal. The seal system shall provide three complete levels of sealing between the pumped liquid and the dry motor chamber. The mechanical seals shall operate in a lubricant/coolant reservoir that hydro-dynamically lubricates the lapped seal faces at a constant rate. The lower, primary seal unit, located between the pump impeller and the lubricant/coolant chamber, shall contain one stationary industrial duty silicon-carbide seal ring and one rotating industrial duty silicon-carbide seal ring. The upper, secondary seal unit shall be located between the lubricant chamber and the moisture sensing chamber. The seal shall contain one stationary carbon seal ring, and one rotating high chrome steel seal ring. Each mechanical seal interface shall be held in contact by its own spring system. The radial lip seal shall be located between moisture sensing chamber and the main bearing housing. The seal system shall not require routine maintenance, or adjustment, and shall not be dependent on the direction of rotation for proper sealing. Each pump shall be provided with a lubricant/coolant chamber for the mechanical shaft sealing system, which shall provide superior heat transfer, and maximum seal cooling. The chamber shall be designed to prevent overfilling and to provide liquid expansion capacity. The drain and inspection plug(s) shall have a positive anti-leak seal and shall be easily accessible from the outside of the pump. The seal system shall not rely upon the pumped media for lubrication and shall not be damaged when the pump is run dry.	✓	
39	The following seal types shall not be considered acceptable or equal: Seals of proprietary design or seals manufactured by other than major independent seal manufacturing companies. Seals requiring set screws, pins, or other mechanical locking devices to hold the seal in place, conventional double mechanical seals containing either a common single or double spring acting between the upper and lower seal faces, any system requiring a pressure differential to seat the seal and ensure sealing.	✓	
	<b>1.9 SHAFT</b>		
40	Provide a common pump/motor shaft of sufficient size to transmit full driver output with a maximum deflection of 0.002 inches measured at the lower mechanical seal.	✓	
41	The shaft shall be made completely of at minimum ASTM A276 Type 420 stainless steel.	✓	
	<b>2.0 IMPELLER</b>		
42	The impeller shall be non-clogging design, and the materiel shall be of ASTM A-48, Class 35B. A positively engaged, ratcheting washer assembly shall prevent the screw from loosening. The head of the impeller screw shall be effectively recessed within the impeller bore to prevent disruption of the flow stream and loss of hydraulic efficiency.	✓	
43	The impeller shall be statically and dynamically balanced having a long through let without acute turns. The impeller shall be dynamically balanced to the ISO 10816 standard to provide smooth, vibration-free operation.	✓	
	<b>2.1 VERIFICATION OF PERFORMANCE</b>		
44	All pumps shall be field tested after installation to demonstrate satisfactory operation without excessive noise, vibration, cavitation, or over-heating.	✓	
45	Any pump that fails to meet any of the contract specifications will be modified, repaired, or replaced by the Supplier at no additional cost to the Owner.	✓	
46	Site tests shall be conducted by the manufacturer or an Authorized Representative.	✓	
47	Tests shall include checking for correct rotation, maximum motor amperage draws within nameplate specifications, balanced voltages on each power leg with the pump operating to within manufacturers tolerances and demonstrated compatibility of the pump/motor with the controls supplied.	✓	

48	The pump supplier shall have a test pit with adequate capacity to accurately perform a flow test on the pumps at the specified designed performance. The pump supplier shall have a 24 hour on call rental fleet at their facility that can handle any of the pump stations flows. To reduce down time, the pump supplier shall have on one site, and shall be within 75 miles of the pump site, a repair shop, motor rewind shop that can handle up to 500 HP, and a UL control panel shop.	✓	
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Line Ref #	DETAILED REQUIREMENTS	Compliant?	
		Yes	No
	<b>3.0 DOCUMENTATION AND MANUALS</b>		
49	Supplier shall provide two (2) sets of detailed standard submittal drawings, operation and maintenance instruction manuals, and parts list. Submittal shall consist of (minimum): (a). Pump Outline Drawing (b). Typical Installation Guides	✓	
50	Parts List and Technical Manuals shall be provided after start-up has been completed.	✓	
	<b>4.0 DELIVERY</b>		
51	Successful Bidder shall supply equipment within twelve (12) weeks upon receipt of the Purchase Order issued by the City of Alabaster. Note: Maximum pump lead time is 18-21 weeks.		✓
52	All supplied equipment shall be delivered as a package per pump station with proper labeling to identify the equipment with the appropriate pump station listed.	✓	

APPENDIX B

BIDDER PRICING  
FORM

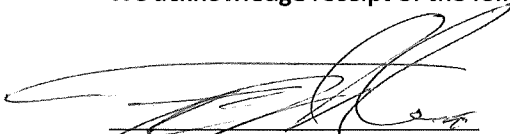
The City reserves the right to make an award in whole or part to one or more Bidders whenever deemed necessary and in the best interest of the City. All minimum quantities provided are considered to be estimates only.

Bidder must include in its Bid price all labor, supervision, materials, equipment, and tools of the trade required to meet the Contract requirements. Prices quoted shall be in U.S. Dollars, delivered prices, F.O.B. destination, exclusive of all federal or state excise, sales, and manufacturer's taxes. The City will not accept charges for transportation, handling, packaging, installation or out-of-pocket expense other than as specified in the Bid.

Prices quoted to the City shall remain firm for a minimum of ninety (90) days from the date of opening of the bid, unless so stated differently in the bid. If there are discrepancies between unit prices quoted and extensions, the unit price will prevail. The City will be protected against any increase above the price in the bid. Any bid containing an "Escalator Clause" will not be considered unless so stipulated in the Invitation for Bid. Discounts will be considered in determining the lowest responsible bidder, however, any payment term based on less than 30 days will not be considered. Discounts will be figured from the date of acceptance by the City regardless of date of delivery or invoice.

Bidder shall acknowledge receipt of all addenda in the space provided on the Bidder Pricing Form below. Failure to acknowledge receipt of addenda shall not relieve Bidder of full responsibility for all requirements contained in addenda.

We acknowledge receipt of the following addenda:



Signature

9/5/2023

Date

- **LIFT STATION 6**

- **SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**

- MAKE Sulzer MODEL XFP100E-CB1.4-PE90/4

- PRICE EACH-DELIVERED \$9,670.00

- Lift Station

- DELIVERY SCHEDULE 10-15 Week lead Time

---

- **LIFT STATION 10**

- **SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**

- MAKE Sulzer MODEL XFP81C-VX.1-PE45/2

- PRICE EACH-DELIVERED \$5,360.00

- Lift Station

- DELIVERY SCHEDULE 10-15 Week lead Time

---

- **LIFT STATION 23**

- **SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**

- MAKE Sulzer MODEL Piranha PE35/2W

- PRICE EACH-DELIVERED \$4,910.00

- Lift Station

- DELIVERY SCHEDULE 10-15 Week lead Time

---

- **LIFT STATION 24**

- **SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**

- MAKE Sulzer MODEL Piranha PE35/2W

- PRICE EACH-DELIVERED \$4,910.00

- Lift Station

- DELIVERY SCHEDULE 10-15 Week lead Time

---

- **LIFT STATION 33**

- **SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**

- MAKE Sulzer MODEL XFP100E-CB1.5-PE56/4

- PRICE EACH-DELIVERED \$7,160.00

- Lift Station

- DELIVERY SCHEDULE 10-15 Week lead Time

---

- **LIFT STATION 35**

**SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**

MAKE Sulzer MODEL XFP100E-CB1.4-PE35/6

PRICE EACH-DELIVERED \$6,540.00

Lift Station

DELIVERY SCHEDULE 10-15 Week lead Time

---

- **LIFT STATION 36**

**SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**

MAKE Sulzer MODEL XFP100G-CB1.5-PE210/4

PRICE EACH-DELIVERED \$13,620.00

Lift Station

DELIVERY SCHEDULE 11-16 Week lead Time

---

- **LIFT STATION 42**

**SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**

MAKE Sulzer MODEL XFP100E-CB1.4-PE75/4

PRICE EACH-DELIVERED \$6,290.00

Lift Station

DELIVERY SCHEDULE 10-15 Week lead Time

---

- **LIFT STATION 43**

**SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**

MAKE Sulzer MODEL XFP100C-VX.1-PE35/4

PRICE EACH-DELIVERED \$5,050.00

Lift Station

DELIVERY SCHEDULE 10-15 Week lead Time

---

- **LIFT STATION 44**

**SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**

MAKE Sulzer MODEL XFP100E-CB1.6-PE56/4

PRICE EACH-DELIVERED \$7,160.00

Lift Station

DELIVERY SCHEDULE 10-15 Week lead Time

---

- **P1 (Inside the Plant)**

**SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**MAKE Sulzer MODEL XFP255J-CB2.390 PE520/6PRICE EACH-DELIVERED \$37,440.00

Lift Station

DELIVERY SCHEDULE 18-21 Week lead Time

---

- **P2 (Inside the Plant)**

**SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**MAKE Sulzer MODEL XFP305J-CB2.351.3-PE430/6PRICE EACH-DELIVERED \$26,580.00

Lift Station

DELIVERY SCHEDULE 18-21 Week lead Time

---

- **P3 (Inside the Plant)**

**SUBMERSIBLE NON-CLOG WASTEWATER PUMPS**MAKE Sulzer MODEL XFP81E-VX.4-PE80/2PRICE EACH-DELIVERED \$6,070.00

Lift Station

DELIVERY SCHEDULE 10-15 Week lead Time

---

**TOTAL BASE BID AMOUNT: \$ 141,100.00**

**EXTENDED TOTAL FOR All lift stations submersible wastewater pumps**


This Price Bid Form is hereby submitted by the undersigned:

**Hydra Service, Inc.**

**F.J. Doyle, II - President**

Printed legal name of Bidder

Printed name of individual/corporate officer/general partner/joint venturer AND Title



9/5/2023

Signature

Date



## APPENDIX C

## Current Lift Station Information

Lift Station #	HP	TDH	GPM	Voltage
6	15	48	590	460
10	7.5	53	110	240
23	3			240
24	3			240
33	7.5	40	250	240
35	7.5	24	250	240
36	28	87	500	240
42	10	50	500	460
43	5	80	29	240
44	7.5	34	247	240
P1 (Inside the Plant)	70	42	3820	460
P2 (Inside the Plant)	58	31	5300	460
PS3 (Inside the Plant)	10	57	180	460

Council Member \_\_\_\_\_ introduced the following Resolution, which was seconded by Council Member \_\_\_\_\_.

Item #5.



**RESOLUTION 091123-D**

**AUTHORIZING AN AGREEMENT WITH SOFT-PAK SOFTWARE SOLUTIONS THROUGH INGRAM EQUIPMENT COMPANY**

**WHEREAS**, the Mayor and City Council wish to provide adequate and efficient equipment for our Public Works Department to enable them to serve our citizens, and;

**WHEREAS**, new garbage truck monitoring technology can improve efficiencies and enhance safety for employees and citizens, and;

**WHEREAS**, said agreement will include the following:

Soft-Pak Cloud Software Licenses 3 Year Agreement						
Soft-Pak Fee Schedule						
Item Description	Unit Price	Qty	Unit	One Time Cost	Monthly Usage	
<b>Soft-Pak Database License</b> <i>Soft-Pak software includes: Customer Management, Billing, A/R, eMail PDF Billing, Collections, Reporting, Operations, Productivity, Recurring Credit Card processing (requires fusebox), Recurring eCheck (requires Forte)</i>	4,500.00	1	ea.	4,500.00		
<b>Soft-Pak User License</b>	650.00	3	ea.	1,950.00	270.00	
Optional Soft-Pak Modules and Interfaces						
Item Description	Unit Price	Qty	Unit	One Time Cost	Monthly Usage	
<b>Map Pak</b> (Scheduled routes, Work Orders & Mobile-Pak events/GPS in Google Maps)	500.00	1	ea.	500.00	60.00	
<b>Mobile Pak</b> price per unit (paperless routing, real time data exchange between vehicle and office. Customer responsible for all hardware and data plan) (\$75/month/tablet)(Turn-by-Turn:\$10/month/tablet additional)	500.00	12	ea.	6,000.00	900.00	
Total Software Fees				One Time	Monthly	
<b>Total Soft-Pak Software Licenses:</b>				<b>\$ 12,950.00</b>	<b>\$ 1,230.00</b>	
<b>Total Due (50% of Software license fees) to Schedule Installation:</b>				<b>\$ 6,475.00</b>		
Remainder of Soft-Pak Software Fees, plus Monthly Usage due starting at customers 'go-live'						

Technical Services & Training Estimates						
Item Description	Unit Price	Qty	Unit	Extended Price		
Remote Pre Implementation Work /hour (est. 2-4 hrs)	150.00	2.0	Hrs	300.00		
Remote Training - Sys Admin, Users, Go Live (est. 25-35 hrs)	150.00	25.0	Hrs	3,750.00		
Custom Programming for billing format changes	185.00	0.0	Hrs	0.00		
Data Conversion from Quickbooks/excel (10-25 hrs)	185.00	10.0	Hrs	1,850.00		
E-Mail billing Setup (est 3-5 hrs/form, if not using standard)	185.00	0.0	Hrs	0.00		
E-Pak Database configuration and user set up	150.00	1.0	Hrs	150.00		
Mobile-Pak Setup and Configuration (estimate 1-3 hrs)	185.00	1.0	Hrs	185.00		
Printer set up and configuration after initial set up is complete	150.00	0.0	Hrs	0.00		
Follow Up/Process Review (2-6 hrs, if needed)	150.00	2.0	Hrs	300.00		
Total Technical Services & Training Estimates*				One Time		
<b>Estimated Total:</b>				<b>6,535.00</b>		
*billed as services are performed/completed						

**NOW THEREFORE, BE IT RESOLVED, AS FOLLOWS:**

- 1) The City Council authorizes an agreement with Soft-Pak, through Ingram Equipment Company, for Garbage Truck Route Management for the Public Works Department, at a cost not to exceed \$19,485 up front and \$1,230 monthly.
- 2) That the Mayor and City Clerk are authorized to execute and attest any related, and necessary documents on behalf of the City for said purchase.

	Y / N		Y / N
Sophie Martin	_____	Jamie Cole	_____
Rick Ellis	_____	Zach Zahariadis	_____
Stacy Rakestraw	_____	Kerri Pate	_____
Greg Farrell	_____		

**ADOPTED AND APPROVED THIS 11TH DAY OF SEPTEMBER 2023.**

ATTEST:

CITY OF ALABASTER

\_\_\_\_\_  
J. Mark Frey, City Clerk

\_\_\_\_\_  
Greg Farrell, Council President Pro Tem

APPROVED:

\_\_\_\_\_  
Scott Brakefield, Mayor



Quote Date: May 4, 2023  
 For: CITY OF ALABASTER, AL  
 By: CHRIS  
 Quote # 229502/4375  
 1-888-763-8725 ext: 513

Item #5.

**Soft-Pak Software Solutions Price Proposal for  
 CITY OF ALABASTER, AL  
 900 MAINTENANCE DR, ALABASTER, AL 35007**

**Soft-Pak Cloud Software Licenses 3 Year Agreement**

<b>Soft-Pak Fee Schedule</b>						
Item	Description	Unit Price	Qty	Unit	One Time Cost	Monthly Usage
	<b>Soft-Pak Database License</b>	4,500.00	1	ea.	4,500.00	
	<i>Soft-Pak software includes: Customer Management, Billing, A/R, eMail PDF Billing, Collections, Reporting, Operations, Productivity, Recurring Credit Card processing (requires fusebox ), Recurring eCheck (requires Forte )</i>					
	<b>Soft-Pak User License</b>	650.00	3	ea.	1,950.00	270.00

**Optional Soft-Pak Modules and Interfaces**

Item	Description	Unit Price	Qty	Unit	One Time Cost	Monthly Usage
	<b>Map Pak (Scheduled routes, Work Orders &amp; Mobile-Pak events/GPS in Google Maps)</b>	500.00	1	ea.	500.00	60.00
	<b>Mobile Pak price per unit (paperless routing, real time data exchange between vehicle and office. Customer responsible for all hardware and data plan) (\$75/month/tablet)(Turn-by-Turn:\$10/month/tablet additional)</b>	500.00	12	ea.	6,000.00	900.00

<b>Total Software Fees</b>	<b>One Time</b>	<b>Monthly</b>
<b>Total Soft-Pak Software Licenses:</b>	<b>\$ 12,950.00</b>	<b>\$ 1,230.00</b>

**Total Due (50% of Software license fees) to Schedule Installation: \$ 6,475.00**

Remainder of Soft-Pak Software Fees, plus Monthly Usage due starting at customers 'go-live'

**Technical Services & Training Estimates**

Item	Description	Unit Price	Qty	Unit	Extended Price
	Remote Pre Implementation Work /hour (est. 2-4 hrs)	150.00	2.0	Hrs	300.00
	Remote Training - Sys Admin, Users, Go Live (est. 25-35 hrs)	150.00	25.0	Hrs	3,750.00
	Custom Programming for billing format changes	185.00	0.0	Hrs	0.00
	Data Conversion from Quickbooks/excel (10-25 hrs)	185.00	10.0	Hrs	1,850.00
	E-Mail billing Setup (est 3-5 hrs/form, if not using standard)	185.00	0.0	Hrs	0.00
	E-Pak Database configuration and user set up	150.00	1.0	Hrs	150.00
	Mobile-Pak Setup and Configuration (estimate 1-3 hrs)	185.00	1.0	Hrs	185.00
	Printer set up and configuration after initial set up is complete	150.00	0.0	Hrs	0.00
	Follow Up/Process Review (2-6 hrs, if needed)	150.00	2.0	Hrs	300.00

<b>Total Technical Services &amp; Training Estimates*</b>	<b>One Time</b>
<b>Estimated Total:</b>	<b>6,535.00</b>

\*billed as services are performed/completed

<b>Customer Signature, Acknowledgment of Payment Terms</b>	
<p>Customer understand and agrees to the payment terms listed above. The initial payment is due prior to scheduling service, providing installation or training, or providing access to the application server. The customer acknowledges the terms and conditions as listed in the Application Service Provider Agreement. Technical services and on-site training "service fees" are billed as services are performed (invoices are sent weekly and due upon receipt). Cancellation of onsite or remote training requires 24hrs advanced written notification prior to services being performed. Any training that is not cancelled within 24hours will be billed at the standard rate of \$150/ hour (with no exception). Note that all travel related expenses are billed "per diem" and invoiced weekly in conjunction with the technical services and training performed. The "go live date" is described as the day the customer is allowed access to the application server. The remaining software balance is due once the "go live date" is complete. Annual support will be invoiced at the "go live date". A commitment to the "go live" date is agreed to between customer and vendor with no rescheduling, cancellation or postponement offered except in extenuating circumstances. Annual Support fees or Monthly Support fees are billed based on the mutually agreed to go live date. Post go live training is expected to end 2 months (60 days) after the "go live" date. A customer can request additional training from the training or support departments and is billable at the standard training rate of \$150/hour.</p>	
Print Name	Title
Customer Signature	Date

## APPLICATION SERVICE PROVIDER AGREEMENT

This Application Service Provider Agreement (“Agreement”) is entered into between Soft-Pak, Inc., a California corporation (“Vendor”), and City of Alabaster, AL of Alabaster, AL (“Customer”), with reference to the following:

### 1. Services

- (a) **Effective Date.** The Effective Date of this Agreement shall be the date on which this Agreement first becomes fully executed by all Parties hereto.
- (b) **System Access.** Subject to the terms and conditions of this Agreement, during the Term (as listed on the Price Proposal), Customer may use the Soft-Pak software application (“System”) over the internet solely to support the Customer’s normal course of business. The terms of the Price Proposal are incorporated by reference.
- (c) **Restrictions on Use.** Customer shall not, directly or indirectly, (i) license, sell, lease or otherwise transfer the System to any third party, (ii) alter or permit a third party to alter any part of the System; (iii) allow access to or share non-public System features or content with any third party; or (iv) access the System in order to build a competitive product or service, to build a product using similar ideas, features, functions or graphics of the System, or to copy any ideas, features, functions or graphics of the System.
- (d) **Data Storage.** All user licenses, modules and interface additions listed in the Price Proposal are based on concurrent usage; except Scale-Pak which must be identified by each scale location and company.
- (e) **Use of Data.** Customer agrees that it is solely responsible for collecting, inputting and updating all data related to their use of the System.
- (f) **Passwords.** Customer is responsible for all use of its account numbers and passwords, and for maintaining the confidentiality of all passwords and information. Customer shall not allow its users to share log-in credentials or provide System passwords or other log-in information to any third party.

### 2. Fee and Payment Terms

- (a) **Fees.** All payments are due in United States Dollars. Customer acknowledges and agrees to pay Vendor based on the terms listed on the Price Proposal. All nonrecurring charges (“Service Fees”) will be invoiced and paid upon receipt. Support services begin once the Customer is granted access to the application server (the “Go Live” date).
- (b) **Payment Schedule.** On the Effective Date, Customer shall pay Vendor the amount equal to the initial deposit on the Price Proposal. No installation or conversion services will be scheduled by Vendor until the initial deposit is paid in full. The remaining balance is due pursuant to the terms of the Price Proposal. The Go Live date is the first date on which Customer is granted System access. Customers paying a monthly subscription fee will be provided a statement on the first of each month and shall pay in accordance with the statement. Vendor reserves the right to invoice on a prorated basis for any part of a calendar month to allow for subsequent statements to be calculated and paid on a calendar or monthly basis.
- (c) **Late Charges.** Any payment not received within thirty (30) days of the invoice date will be assessed a penalty fee at a rate of ten percent (10%) per month or the highest rate permissible under applicable law. If Customer is delinquent in its payments, Vendor may, upon prior written notice (either paper or email) to Customer, and at Vendor’s sole discretion (i) terminate this agreement; (ii) in whole or in part suspend System access to Customer until payments and penalties are paid in full; (iii) in whole or in part suspend System access to Customer until Vendor and Customer have agreed, in writing, to modified payment terms that include a payment schedule for all delinquent amounts, and/or (iv) require other assurances to secure Customer’s payment obligations hereunder (such as setting up recurring payments on the first of each month, etc.).
- (d) **Adjustment of ongoing fees:** Vendor reserves the right to adjust the annual or monthly fee for Customer by providing written notice to Customer no later than thirty (30) days prior to the end of the current annual or monthly term.
- (e) **Taxes.** Customer will be responsible for all applicable taxes and fees.

### 3. Warranty

- (a) Vendor warrants that it will use commercially reasonable efforts to provide System access to Customer. Vendor does not warrant that the System shall be provided uninterrupted or without error; provided that:
  - (i) Customer has not used the System in combination with hardware (i.e., printers) or software not provided by Vendor; and
  - (ii) Customer has made no changes (nor permitted any change to be made other than by or with the express approval of Vendor) to the System.
- (b) EXCEPT FOR THE LIMITED WARRANTY SET FORTH ABOVE, THE SYSTEM IS PROVIDED “AS IS” AND “AS AVAILABLE” WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND. VENDOR MAKES NO REPRESENTATION OR WARRANTY (EXPRESS, IMPLIED OR STATUTORY) WITH RESPECT TO THE SYSTEM, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, MERCHANTABILITY, OR NONINFRINGEMENT. VENDOR DOES NOT WARRANT THAT THE SYSTEM WILL OPERATE UNINTERRUPTED OR ERROR-FREE.

### 4. Confidential Information

- (a) Customer acknowledges the System contains trade secrets, Confidential Information and other proprietary information owned by Vendor. During the Term of this Agreement and for five (5) years thereafter, Customer shall not disclose Vendor Confidential Information to any other third party without Vendor’s prior written consent. Without limiting the generality of the foregoing, Customer shall protect Vendor Confidential Information with the same degree of care it uses to protect its own confidential information of similar nature and importance, but with no less than reasonable care. Customer will not assist, communicate product functionality, promote or become a partner or equity stake holder with a competing 3<sup>rd</sup> party product; doing so results in a Breach of Contract. Customer shall promptly notify Vendor of any misuse or misappropriation of Vendor Confidential Information that comes to Customer’s attention. Notwithstanding the foregoing, Customer may disclose Vendor Confidential Information as required by applicable law or by proper legal or governmental authority. Customer shall give Vendor prompt notice of any such legal or governmental demand and reasonably cooperate with Vendor in any effort to seek a protective order or otherwise to contest such required disclosure and limit the scope of such disclosure, at Vendor’s expense.
- (b) Vendor Confidential Information does not include information that: (i) is in Customer’s possession at the time of disclosure, and can be independently verified; (ii) is independently developed by Customer without use of or reference to Vendor Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of Customer’s improper action or inaction; or (iv) is approved for release in writing by Vendor.
- (c) Customer agrees that no third parties, including consultants or independent contractors engaged or employed by Customer shall have access to Vendor Confidential Information without the prior written consent of Vendor.
- (d) Vendor agrees to use a commercially reasonable level of care to preserve the confidentiality of Customer Information. Customer is required to comply with applicable privacy laws regarding information inputted into the System. Vendor takes no responsibility for personally identifiable information, financial information, or any other sensitive information inputted by Customer, and makes no representations or warranties to guarantee the security of such information.
- (e) The parties expressly agree that the existence of and terms of this Agreement (including the Price Proposal) shall be maintained in confidence and that Customer shall not disclose the terms of this Agreement to any third party without the prior written approval of Vendor.
- (f) Customer agrees that breach of this Section 4 would cause Vendor irreparable injury, for which monetary damages would not provide adequate compensation, and that in addition to any other remedy, Vendor shall be entitled to injunctive relief against such breach or threatened breach, without proving actual damage or posting a bond or other security.

### 5. Proprietary Rights

- (a) **Vendor’s Proprietary Rights.** Exclusive of Customer Information, Vendor shall retain all right, title, and interest (including copyright and other intellectual property rights) relating to the System and the Vendor Confidential Information and all legally protectable elements or derivative works thereof. Vendor may place copyright and/or proprietary notices, including hypertext links, within the System. Customer shall not alter or remove such notices without Vendor’s written permission. Vendor shall own and may freely use any feedback or suggestions regarding the System provided by Customer without attribution or the need for Vendor to pay Customer any royalties or other fees of any kind.
- (b) **Customer’s Data Rights.** Customer shall retain all rights to Customer Information inputted by Customer into the System.
- (c) In order to improve Vendor’s product and service offerings for its customers, Vendor may use System data in an aggregated, de-identified format with the following removed: personally identifiable information and the names and addresses of Customer and any of its users or customers.

### 6. Term, Annual Support Adjustments and Site License

The Term for this Agreement is set forth on the Price Proposal and becomes effective on the Go Live date. The Term of each Agreement shall automatically renew for an additional one-year period (regardless of monthly or annual fee payments) unless either party notifies the other in writing at least thirty (30) days prior to the end of the Term. Vendor reserves the right to increase the annual (or monthly) fees by up to five percent (5%) at any given time. Written notification will be provided by Vendor to Customer at least thirty (30) days prior to any rate adjustment taking effect.

### 7. Termination

- (a) **By Vendor.** Vendor may terminate this Agreement at any time upon giving Customer a Notice of Termination if Customer breaches this Agreement and fails to cure such breach within ten (10) days of written notice describing such breach,



except in the case of failure to pay fees, which must be cured within five (5) days after Vendor gives Customer a delinquency notice.

- (b) **By Customer.** Customer has agreed to the contracted terms (annual or monthly) as listed on the Price Proposal. Customer may terminate this Agreement by providing Vendor written notice of termination if:
  - i) Vendor materially breaches this Agreement and fails to cure such breach within thirty (30) days of written notice describing such breach;
  - ii) Vendor becomes the subject of a voluntary or involuntary petition in bankruptcy, ceases business for any reason, insolvency, receivership, liquidation, or composition for the benefit of creditors, if such petition is not dismissed within sixty (60) days of filing;
  - iii) Unscheduled downtime exceeds thirty hours over a monthly period; or
  - iv) Customer is acquired and the new entity does not wish to enter into a similar agreement with Vendor, and provides Vendor with at least thirty (30) days written notice to terminate the Agreement. In this case, Customer (either existing or newly acquired entity) is responsible to pay Vendor one-half (1/2) of the remaining balance due of the Term agreement as liquidated damages.
- (c) **Termination Procedures and Costs.** Upon written notice by Customer or Vendor, and an effective termination date of this Agreement, Vendor shall cease providing access to the System, Customer shall cease using the System, and all payment obligations of Customer through the Term shall immediately become due. If Customer makes recurring payments via credit card or E-Check, Vendor shall utilize that payment method for the outstanding balance owed.
  - i) Upon full payment by Customer, Vendor shall immediately provide Customer all Customer Information and data which resulted from providing access to the System, in a format specified by the Customer (limited to excel, access or any ODBC compliant platform).
  - ii) If Customer terminates the Agreement under Section 7(b) i, ii, and iii, Customer is not responsible for any outstanding service fees to Vendor from the date of Vendor's receipt of the written deficiency notice through the remaining balance of the Term.
  - iii) If Customer is of monthly service and terminates the agreement for any reason outside Section 7(b) (i – iv), Customer shall pay Vendor half the remaining balance due for the Term.

**8. Limitation of Liability**

**General.** Sections 3 (Warranty), 8 (Limitation of Liability), and 9 (Indemnification) set forth Vendor's entire liability and Customer's exclusive remedies. In no event shall Vendor be liable for any amount in excess of amounts paid under this agreement during the six-month period prior to the event giving rise to such liability. UNDER NO CIRCUMSTANCES SHALL VENDOR BE LIABLE FOR ANY TYPE OF INCIDENTAL, SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST REVENUE, LOST PROFITS, REPLACEMENT GOODS, COST OF REPLACEMENT GOODS, LOSS OF INFORMATION, OR INTERRUPTION OR LOSS OF USE OF SERVICE OR EQUIPMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING UNDER ANY THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. The parties agree that the limitation and exclusions of liability and disclaimers specified in this agreement will survive and apply even if found to have failed of their essential purpose.

**9. Indemnification**

- (a) **By Vendor.** Vendor will indemnify, defend, and hold Customer harmless from and against any and all costs, liabilities, losses and expenses, (including, but not limited to, reasonable attorneys' fees) (collectively "Losses") resulting from any claim, suit, action or proceeding (each an "Action") brought by any third party against Customer alleging (i) the infringement or misappropriation of any intellectual property right, including but not limited to copyright, trade secret and trademark rights, by the System, or (ii) personal injury, or any loss or damage to real or tangible personal property, to the extent caused by gross negligence by Vendor. Vendor's indemnification obligation hereunder shall be subject to (a) receiving prompt written notice from Customer of the existence of any Action: (b) being able to, at its option, control the defense of such Action, including the selection of counsel; and (c) receiving full cooperation of Customer in the defense thereof. Vendor's indemnification obligations hereunder shall be mitigated to the extent of Customer's negligence or willful misconduct.
- (b) **By Customer.** Customer will indemnify, defend, and hold Vendor harmless from and against any and all costs, liabilities, losses and expenses, (including, but not limited to, reasonable attorneys' fees) (collectively "Losses") resulting from any claim, suit, action or proceeding (each an "Action") brought by any third party against Vendor alleging (i) the infringement or misappropriation of any intellectual property right, including but not limited to copyright, trade secret and trademark rights, relating to Customer's Information or caused by modifications to the System made or requested by Customer, or (ii) personal injury, or any loss or damage to real or tangible personal property, caused by any act or omission by Customer. Customer's indemnification obligation hereunder shall be subject to (a) receiving prompt written notice of the existence of any Action: (b) being able to, at its option, control the defense of such Action; (c) permitting Vendor to participate in the defense of any Action; and (d) receiving full cooperation of Vendor in the defense thereof. Customer's indemnification obligations hereunder shall be mitigated to the extent of Vendor's negligence or willful misconduct.

**10. General Provisions**

- (a) **Entire Agreement.** This Agreement, together with the provided Price Proposal, constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to the subject matter hereof, superseding all prior and contemporaneous proposals, communications and understandings, oral or written. For the avoidance of doubt, this Agreement hereby supplants and terminates any confidentiality or non-disclosure agreement between the Parties.
- (b) **Spool File** – Vendor will delete spool files monthly that are 60 days old (or older) as part of Vendor's monthly maintenance. Vendor shall not be liable for any action related to the deletion of spool files.
- (c) **Credits and Upgrades.** Up to thirty (30) days after the Effective Date, Customer can apply 50% of the paid monthly service fee towards licensing i-Pak or e-Pak (V4 or higher), up to 50% of the i-Pak or e-Pak (and associated modules) list price.
- (d) **Force Majeure.** Vendor shall not be in default or otherwise liable for any delay in or failure of its performance hereunder where such delay or failure arises by reason of any Act of God, any government order or directive, war, pandemic, national emergency, insurrection, acts of terrorism, strikes or labor disputes, or other similar or dissimilar causes beyond Vendor's control.
- (e) **Amendment.** The agreement may not be modified, altered or amended except by a written instrument duly executed by both parties.
- (f) **Mediation.** In the event of a dispute under this Agreement, the parties will first attempt to resolve the dispute in good faith. Unresolved disputes will be submitted to non-binding mediation in the County of San Diego, California prior to commencement of any legal or administrative proceeding for any alleged violation of the Agreement. If the parties cannot agree upon an individual to serve as mediator, they shall each select an attorney or other individual recognized as an approved mediator, and those two individuals selected shall jointly agree upon the selection of a third individual who shall alone serve as mediator. If such parties are also unable to agree upon an individual to serve as mediator, the requirement of each party to submit to non-binding mediation under this Agreement shall be waived.
- (g) **Governing Law; Venue.** This Agreement and performance hereunder shall be governed by the laws of the State of California. The parties agree that any lawsuit regarding this Agreement shall be tried in the County of San Diego, and each party hereto consents to personal jurisdiction by the State of California regarding any such lawsuit. The prevailing party shall be entitled to recover from the other party reasonable expenses, attorney's fees and costs to the extent of the Court's finding of liability percentage attributable to the losing party.
- (h) **Read and Understood.** Each party acknowledges that it has read and understands this agreement and agrees to be bound by its terms.

**11. Support & Training Services**

- (a) **Hourly Rates for Billable Services.** The current hourly rate for billable services during normal working hours will be billed in half (0.5) hour increments. Support calls longer than thirty (30) minutes are deemed training and billed at the current hourly rate. There is a one-hour minimum for support /programming services outside normal working hours (i.e., off duty pager, expedited service) billed at \$225 per hour for support and \$275 per hour for programming. Cancellation of any scheduled services requires 24 hours advanced written notification prior to services being performed. Any scheduled service not canceled as provided herein will be billed at that scheduled service's regular rate.
- (b) **Hours of Operation.** The Soft-Pak office is open Monday through Friday, 7am – 5pm Pacific Time. Support Services hours of Operation are 7am to 5pm in the Customer's local time zone (supported hours are ONLY within the following US Time Zones – Eastern, Central, Mountain, Pacific).
- (c) **Days of Operation.** Weekend and Holiday Support is available except as defined by the following 11 Soft-Pak Holidays.
 

New Year's Day**	Good Friday*
Memorial Day*	Independence Day*
Labor Day*	Thanksgiving Day**
Friday after Thanksgiving*	Christmas Eve Day Obsvd(12/22)*
Christmas Day**	New Year's Eve Day Obsd(12/29)*
July 3, 2023 (floating Holiday)*	

\* Office is closed with on duty pager support available (billable).  
\*\*Support services will not respond to calls until next business day.

Soft-Pak reserves the right to occasionally and temporarily activate pager support during normal business hours to accommodate staff meetings.

**12. Services Provided with No Additional Charge During Normal Business Hours**

- (a) **System Failures.** Classified as the following:
  - Class A – Major; resulting in billing errors or severe operational problems.
  - Class B – Moderate; user inconveniences.
  - Class C – Minor; cosmetic "bugs" that have little impact on system performance or data integrity.
 Any Class B or Class C support issue is billable outside normal business hours so long as the System performs as designed. Custom Software is NOT considered to be part of the System.
- (b) **Technical Assurances.** Vendor will answer inquires as to location of required data, specific program features or functions, evaluate error messages and provide solutions for specific challenges. Vendor is not responsible to run day to day functions for Customer without a charge.
- (c) **Software Updates.** Patches related to Class A and B errors will be provided to Customer on an "as required" basis. All new features and functions, including improvements, Class C error corrections and migration software required to incorporate the new features and functions shall be offered to Customer periodically. All normally scheduled upgrades / enhancements are provided by



vendor to client and need to be adhered to by client. Any maintenance testing, changes, or development work relating to existing custom software is billable (at any time), regardless if the existing change order is closed.

**13. Services Provided for an Additional Charge During Normal Business Hours**

- (a) Third Party Hardware or Software Support. Maintenance, support or recommendations for any hardware or software that is not Soft-Pak created, licensed, or maintained is billable.
- (b) Custom Programming. All custom programming requests require a signed change order and are billable. At any update, should any custom software that is not core to the licensed program require additional support, testing, or Customer

programming, that time is billable. Any modifications or creation of forms, accounting interfaces, invoices, reports and/or statements outside of the core licensed program is billable.

- (c) Printer Sessions. Printer Session and Crystal Report setup is billable at \$150/hr., unless as otherwise noted in the Price Proposal
- (d) Expedited Features. Any Class C correction or custom program can be expedited with a signed change order to ensure timely delivery.
- (e) Additional Storage Cost. Any Customer who exceeds the allotted 20 GB of data storage per 10 licenses shall pay an additional \$50 per month per each partial or full unit of 20GB of data storage above the allotted amount. Annual billing Customers shall be prorated.

IN WITNESS WHEREOF, the parties hereto have executed this agreement and thus becomes binding as of the Effective Date.

**VENDOR**

**CUSTOMER**

By: \_\_\_\_\_  
(Authorized Signature)

By: \_\_\_\_\_  
(Authorized Signature)

Name: Brian Porter – President, Soft-Pak

Name: \_\_\_\_\_  
(Print or Type Name and Title)

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

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

Remit to:  
Soft-Pak  
PO Box 745642  
Atlanta, GA 30374-5642



Council Member \_\_\_\_\_ introduced the following Resolution, which was seconded by Council Member \_\_\_\_\_.

Item #6.



**RESOLUTION 091123-E**

**AUTHORIZING AN AGREEMENT WITH 3<sup>RD</sup> EYE THROUGH INGRAM EQUIPMENT COMPANY FOR COLLECTIONS HARDWARE AND MONITORING SOLUTIONS**

**WHEREAS**, the Mayor and City Council wish to provide adequate and efficient equipment for our Public Works Department to enable them to serve our citizens, and;

**WHEREAS**, new garbage truck monitoring technology can improve efficiencies and enhance safety for employees and citizens, and;

**WHEREAS**, said agreement will include the following:

City of Alabaster-Connected Collections-Hardware Costs						Monthly 3rd Eye Fees			
Unit#	Type	Status	3rd Eye Equipment Cost	Tablet Cost	Sub-Total	Safety/Coaching	PSV	Live View	Sub-Total
PW34	KBL	No Cameras	\$ 4,931.73	\$ 1,839.98	\$ 6,771.71	\$ 55.00	\$ -	\$ 10.00	\$ 65.00
PW30	KBL	No Cameras	\$ 4,931.73	\$ 1,839.98	\$ 6,771.71	\$ 55.00	\$ -	\$ 10.00	\$ 65.00
PW31	KBL	No Cameras	\$ 4,931.73	\$ 1,839.98	\$ 6,771.71	\$ 55.00	\$ -	\$ 10.00	\$ 65.00
PW32	KBL	No Cameras	\$ 4,931.73	\$ 1,839.98	\$ 6,771.71	\$ 55.00	\$ -	\$ 10.00	\$ 65.00
PW72	ASL	Rosco Cameras	\$ 7,757.72	\$ 1,839.98	\$ 9,597.70	\$ 55.00	\$ 25.00	\$ 10.00	\$ 90.00
PW74	ASL	Rosco Cameras	\$ 7,757.72	\$ 1,839.98	\$ 9,597.70	\$ 55.00	\$ 25.00	\$ 10.00	\$ 90.00
PW73	ASL	Rosco Cameras	\$ 7,757.72	\$ 1,839.98	\$ 9,597.70	\$ 55.00	\$ 25.00	\$ 10.00	\$ 90.00
PW71	ASL	Rosco Cameras	\$ 7,757.72	\$ 1,839.98	\$ 9,597.70	\$ 55.00	\$ 25.00	\$ 10.00	\$ 90.00
PW75	ASL	Rosco Cameras	\$ 7,757.72	\$ 1,839.98	\$ 9,597.70	\$ 55.00	\$ 25.00	\$ 10.00	\$ 90.00
PW77	ASL	3rd Eye Cameras Only	\$ 4,677.57	\$ 1,839.98	\$ 6,517.55	\$ 55.00	\$ 25.00	\$ 10.00	\$ 90.00
PW??*	ASL	3rd Digital Package	\$ -	\$ 1,839.98	\$ 1,839.98	\$ 55.00	\$ 25.00	\$ 10.00	\$ 90.00
					<b>Total</b>				<b>\$ 83,432.87</b>
								<b>Total</b>	<b>\$ 890.00</b>

\*Newest Freightliner ASL

**NOW THEREFORE, BE IT RESOLVED, AS FOLLOWS:**

- 1) The City Council authorizes an agreement with 3<sup>RD</sup> Eye for Garbage Collections Hardware through Ingram Equipment Company, and Monthly Monitoring for the Public Works Department, at a cost not to exceed \$83,432.87 up front and \$890 monthly.
- 2) That the Mayor and City Clerk are authorized to execute and attest any related, and necessary documents on behalf of the City for said purchase.

	Y / N		Y / N
Sophie Martin	_____	Jamie Cole	_____
Rick Ellis	_____	Zach Zahariadis	_____
Stacy Rakestraw	_____	Kerri Pate	_____
Greg Farrell	_____		

**ADOPTED AND APPROVED THIS 11TH DAY OF SEPTEMBER 2023.**

ATTEST: CITY OF ALABASTER

\_\_\_\_\_  
J. Mark Frey, City Clerk \_\_\_\_\_  
Greg Farrell, Council President Pro Tem

APPROVED:

\_\_\_\_\_  
Scott Brakefield, Mayor



**RESOLUTION 091123-F**

**A RESOLUTION TO SET ALABASTER CITY COUNCIL REGULARLY SCHEDULED MEETINGS BEGINNING IN NOVEMBER 2023**

**BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ALABASTER, ALABAMA, AS FOLLOWS:**

**WHEREAS**, the Alabaster City Council meets bi-monthly currently on the 2<sup>nd</sup> and 4<sup>th</sup> Mondays of each month, and;

**WHEREAS**, it has become necessary to amend the current schedule, pursuant to provisions of Ordinance 14-004, Section 2, the Alabaster City Council does hereby set meetings beginning November 2023, as follows, each meeting begins at 6:30 pm with a pre-meeting set to begin at 6:00pm, all held at 1953 Municipal Way.

**WHEREAS** the Alabaster City Council will continue meeting bi-monthly on the 2<sup>nd</sup> and 4<sup>th</sup> Mondays of each month until amended, and

**WHEREAS** the Alabaster City Council will also meet bi-monthly on the Thursday preceding each Regular City Council Meeting for a Council Work Session unless amended.

**ADOPTED AND APPROVED THIS 11TH DAY OF SEPTEMBER 2023.**

ATTEST:

CITY OF ALABASTER

\_\_\_\_\_  
J. Mark Frey, City Clerk

\_\_\_\_\_  
Greg Farrell, Council President Pro Tem

APPROVED

\_\_\_\_\_  
Scott Brakefield, Mayor



Council Member \_\_\_\_\_ introduced the following Resolution which was seconded by Council Member \_\_\_\_\_:



**RESOLUTION 091123-G**

**AUTHORIZING AN ECONOMIC DEVELOPMENT GRANT AGREEMENT WITH  
PC SWEET HOME BAMA, LLC**

**BE IT RESOLVED** by the City Council (the "Council") of the City of Alabaster (the "City"), as follows:

**Section 1. Findings.** That the Council, upon evidence duly submitted to and considered by it, hereby finds, determines and declares as follows:

(a) The City has heretofore proposed authorization of a Grant Agreement (the "Agreement", and attached hereto as Exhibit A) with PC Sweet Home Bama, LLC in order to promote commercial development within the City, which will upgrade and improve various aspects of the façade of Promenade North, under the proposed terms of the Agreement the maximum sum of \$850,000.00 of City Sales and Use Tax collected from the a defined project area will be used to promote economic development within the City. The term of this Agreement shall expire five (5) years or less from the date of the opening of in the Project area.

(b) The Agreement will provide that all proceeds derived therein described will be used by PC Sweet Home Bama, LLC as inducement payments to promote economic development by developing, constructing, and leasing facilities to one or more retail and commercial spaces within the City and the façade of the Promenade. To the extent that the Agreement with PC Sweet Home Bama, LLC will encumber certain sales and use tax revenues, the City Attorney is authorized to file a lawsuit pursuant to the provisions of the constitution and laws of the State of Alabama, including particularly Amendment No. 772 to the Constitution of Alabama of 1901 (the "Economic Development Amendment") to confirm the validity to the proposed Agreement with PC Sweet Home Bama, LLC and to insure the Agreement is indeed a promotion of the economic development of the City in accordance with the economic development goals and objectives of the City.

(c) The Council has heretofore caused to be published in The Shelby County Reporter (the newspaper having the largest circulation in the City) in its edition of September 3, 2023, a notice to the public announcing the holding by the Council, at its regularly scheduled meeting, of a public hearing at 7:00 p.m. on Monday, September 11, 2023 in the Alabaster City Hall Building located at 1953 Municipal Way, Alabaster, Alabama, for the purpose of receiving comments from interested citizens concerning the proposed authorization, execution and delivery of the Agreement by the City. As provided in the aforesaid notice to the public published in The Shelby County Reporter, copies of a draft of the Agreement have been available for public inspection at the office of the City Clerk, at City Hall, 1953 Municipal Way, Alabaster, Alabama.

(d) Any interested person appearing at the meeting of the Council has been given an opportunity to make comments to the Council on the proposed authorization, and execution of the Agreement by the City, and the Council has considered such comments as may have been made with respect thereto.

(e) The public benefits sought to be achieved by the proposed authorization, and execution of the Agreement by the City is the promotion of local industrial and economic

development and the stimulation of the local economy, the inducement of commercial enterprises to locate new facilities in the City and new residents in the City (resulting in additional tax revenues for the City), increasing employment opportunities in the City and the promotion of the expansion and retention of business enterprises in the City, inuring to the economic health of the City. For purposes of Amendment No. 772 to the Constitution of Alabama of 1901 as amended in 2022, PC Sweet Home Bama, LLC and the business entities to whom or for whose benefit the City proposes to grant public funds or thing of value. The expenditure of public funds for the purpose specified in this resolution and expressed in the agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

**Section 2. Approval.** The Council hereby approves the proposed agreement, and execution of the Agreement by the City in accordance with the applicable provision of the Economic Development Amendment.

**ADOPTED AND APPROVED THIS 11TH DAY OF SEPTEMBER 2023.**

ATTEST:

CITY OF ALABASTER

\_\_\_\_\_  
J. Mark Frey, City Clerk

\_\_\_\_\_  
Greg Farrell, Council President *Pro Tem*

APPROVED:

\_\_\_\_\_  
Scott Brakefield, Mayor

Council member \_\_\_\_\_ introduced the following resolution, seconded by council member \_\_\_\_\_ after a public hearing thereon.



**ECONOMIC DEVELOPMENT GRANT AGREEMENT**

This **ECONOMIC DEVELOPMENT GRANT AGREEMENT** is made and entered as of \_\_\_\_\_ day of September 2023 between the **CITY OF ALABASTER, ALABAMA**, an Alabama municipal corporation (the "City"), and **PC SWEET HOME BAMA, LLC**, a Delaware limited liability company (the "Owner").

**Recitals**

- A. The Owner expects and intends to expand and increase the tax and revenue base of the City by development of the retail facilities described herein.
- B. The City has agreed to assist the Owner with a Grant as provided herein.
- C. The Owner has agreed to construct the Project within the Project Area as provided herein, together with all improvements, both public and private.
- D. Pursuant to the applicable laws of the State of Alabama referenced herein and for the purposes referenced herein, the City and the Owner have delivered this Agreement.

**Agreement**

**NOW, THEREFORE**, for and in consideration of the premises, and the mutual covenants and agreements herein contained, the City and the Owner hereby covenant and agree as follows:

**ARTICLE 1**

**DEFINITIONS**

For purposes of this Agreement the following terms shall have the following meanings:

"**City Sales and Use Tax**" for any Monthly Period shall mean collectively sales and use taxes levied by the City (commonly called Sales and Use taxes) during such Monthly Period which consist of a Sales and Use tax on persons engaged in retail sales (subject to exemption of certain property as provided by law). The City currently has a five percent (5%) Sales and Use Tax.

"**City Sales and Use Tax Proceeds**" for any Quarterly Period shall mean and include all proceeds and receipts of the City Sales and Use Tax from "Michael's", but shall not include any proceeds or receipts (i) from the levy by the City of privilege, license or excise taxes not described in the definition of City Sales and Use Tax, (ii) from the levy of privilege license or excise taxes of any kind, type or nature by taxing authorities other than the City, (iii) from the levy of any increase in the rate of the City Sales and Use Tax enacted after the date of this Agreement.

"**Commencement Date**" shall mean the date on which the "Michael's" opens for business to the public in the Project Area and has commenced the payment of rent and City Sales and Use Tax.

"**Owner**" shall mean **PC Sweet Home Bama, LLC**, and the successors and assigns thereof.

"**Enabling Law**" shall mean Section 94.01 of the Official Recompilation of the Constitution of

the Alabama 1901 and Section 11-47-2 of the CODE OF ALABAMA (1975) as amended in 2022.

**“Grant”** shall mean those payments made by the City to the Owner pursuant to this Agreement.

**“Grant Schedule”** shall mean the percentage of City Sales and Use Tax Proceeds used to determine the amount of the quarterly payment to Owner attached as **Exhibit “B”**.

**“Michael’s”** shall mean the national brand craft retail store within defined area as illustrated in Exhibit “A” Project Area.

**“Monthly Period”** shall mean a period of one calendar month, commencing on the first day of each month and ending on the last day of each month.

**“Payment Date”** shall mean the first business day of each quarter, beginning on the first business day after the quarter of the month which immediately follows the Commencement Date, pursuant to the following Schedule attached as **Exhibit “C”** All payments shall be made in arrears after the closing of the quarterly books.

**“Project”** shall mean the construction and reconstruction of the former Bed Bath and Beyond unit in the Project Area for the use and benefit of “Michael’s”, a craft store, repair of the culvert under the parking lot, update certain landscaping and ongoing cutting the grass and picking up the trash in the detention ponds.

**“Project Area”** shall mean the real property which is described in **Exhibit “A”**.

**“Project City Grant Payments”** shall mean an amount equal to two cents of the current 5 cents of sales and uses taxes collected by the City in from the “Michael’s” net of all costs incurred by the City to collect the City Sales and Use Tax Proceeds within the Project Area. Costs incurred by the City are limited solely to the actual costs of audit and collection of use and sale taxes from Michael’s.

**“Project Real Property Investment”** shall mean the cost paid by the Owner for the required improvements within the Project.

**“Section 94.01”** shall mean Section 94.01 of the Official Recompilation of the Constitution of Alabama of 1901, and commonly referred to as Amendment 772 to the Constitution of Alabama of 1901 as amended in 2022.

**“Total City Grant Termination Date”** shall mean the earlier of (i) 5 years from the first Payment Date, or (ii) the Payment Date on which the City shall have paid as Project City Grant Payments an aggregate amount equal to the Total City Grant Commitment, or (iii) Michael's failure to open for business to the public prior to October 31, 2025, if applicable, unless otherwise approved by the City.

**“Total City Grant Commitment”** shall mean an amount paid to the Owner for improvements in the Project Area, not to exceed **\$850,000.00**, without interest, pursuant to the schedule as set forth in **Exhibits B** and **C**.

## ARTICLE 2

### REPRESENTATIONS AND WARRANTIES

The City hereby represents and warrants as follows:

- (1) The Grant shall be paid to the Owner in accordance with the terms hereof.
- (2) The issuance of the Grant for the purposes set forth in this Agreement will result in direct financial benefits to the City.
- (3) Pursuant to Section 5.01(1), the obligation of the City for the payment of any amounts under this Agreement is payable solely from and shall not exceed the Project City Grant Payments. The City shall never be obligated to pay any amounts under this Grant Agreement which shall be more than the Project City Grant Payments received by the City during the term of this Agreement.

## ARTICLE 3

### DURATION OF AGREEMENT

The obligations of the City and the Owner hereunder shall arise on its execution as required by law and the acquisition by the Owner of the Project property and shall continue until the Termination Date.

## ARTICLE 4

### OBLIGATIONS OF THE OWNER SECTION

#### 4.01 Description of Obligations

- (1) The Owner hereby agrees to observe and perform all agreements thereof under this Agreement duly and punctually.
- (2) The Owner hereby agrees to do the following to facilitate the Project:
  - (a) Provide for the buildout of the former Bed, Bath and Beyond space for a new Michael's arts and crafts store. Prior to receiving incentives, the Michael's store shall be open and producing sales tax.
  - (b) Within eight (8) months after the date of the full execution of this Agreement, the Owner will have begun work shoring the culvert under the parking lot. In addition, Owner will reseal and restripe the parking lots under its control in 2024 for the Ross Lot (depicted on Exhibit A-and in 2025 for the Amstar Lot (depicted on Exhibit A ).
  - (c) Owner shall maintain three detention ponds adjacent to and serving the shopping center; provided, however, that this maintenance shall only include cutting back grass/weeds (anticipated during growing season-May-October) and removal of trash and debris, as needed.
  - (d) Provide preventive maintenance to the shopping center buildings, ground signage including pressure washing, resealing and repainting on or before December 31, 2025.
  - (e) Participate in a one-time 50/50 cost split with the city to relandscape and spruce up Colonial Promenade Parkway (the "Promenade Improvements"). This will include removal of invasive plant materials at the shopping center entrance at Highway 31 and removal, as allowed, of fencing and invasive plant material running parallel to I 65 along Colonial Promenade Parkway. This shall also include installation of attractive, low-maintenance plantings (or possibly hardscapes, natural-looking artificial turf) in areas of the Colonial Promenade Parkway median that are difficult

to regularly maintain. The city and owner (and/or owner representative) shall meet with the selected landscaping company in the next three months to identify areas that need to be addressed. Both parties shall jointly determine a plan of action needed and direct the landscaping company to execute the plan; provided, however, that Owner shall have no obligation to contribution more than \$35,000 towards the cost of any such Promenade Improvements.

(f) Should the work described above not be commenced within 30 months of the execution of this Agreement, absent extensions approved by the City in writing, this remainder of this Agreement shall be terminated, and no further payments will be due thereon. Upon request, Owner shall provide City with documentation reasonably requested to evidence payment of the work described herein.

## SECTION 5

### AGREEMENTS AND OBLIGATIONS OF THE CITY SECTION

#### 5.01 Nature, Amount and Duration of Obligation of City.

(1) The City hereby agrees to pay as a grant to the Owner in arrears two cents of the five cents per dollar of City sales and uses taxes paid by Michael's in the Project Area as set forth in Exhibit B. .

(2) The City hereby agrees to pay to the Owner in arrears on each Payment Date during the Term the Sales and Use Tax portion of the Project City Grant Payments determined by the City to be due and payable on such Payment Date.

(3) The obligation of the City for the payment of the Project City Grant Payments:

(a) is a limited obligation payable solely from the City Sales and Use Tax Proceeds generated from "Michael's";

(b) shall never constitute a general obligation, or a charge against the general credit or taxing powers of the City within the meaning of any constitutional provision or statutory limitation whatsoever.

(c) shall commence on the first Payment Date after the Commencement Date.

(4) The maximum amount of the Project City Grant Payments the City shall pay under this Agreement shall be limited to and shall not exceed the Total City Grant Commitment.

(5) The City shall have no obligation to pay any amount under this Agreement from and after the Termination Date.

(6) The City agrees to participate with Owner in a one-time 50/50 cost split to relandscape and spruce up Colonial Promenade Parkway. This will include removal of invasive plant materials at the shopping center entrance at Highway 31 and removal, as allowed, of fencing and invasive plant material running parallel to I 65 along Colonial Promenade Parkway. This shall also include installation of attractive, low-maintenance plantings (or possibly hardscapes, natural-looking artificial turf) in areas of the Colonial Promenade Parkway median that are difficult to regularly maintain. The City and Owner (and/or owner representative) shall meet with the selected landscaping company in the next three months to identify areas that need to be addressed. Both parties shall jointly determine a plan of action needed and direct the landscaping company to execute the plan

#### 5.02 Determination and Payment of Project City Grant Payments.

(1) On each Payment Date the City shall:

(i) determine the Project City Grant Payments (if any) to be made for the prior

quarterly period (provided that the initial Project City Sales and Use Tax Payment shall be calculated for the period between the Commencement Date and the initial Payment Date); and

(ii) pay to the Owner, such amount of Project City Grant Payments as determined under Section 5.02(1)(i).

(2) The City will permit any attorneys, accountants or other agents or representatives designated by the Owner to (i) have access to and visit and inspect any of the accounting systems, books of account, and financial records and properties of the City which pertain to the City Sales and Use Tax Proceeds and the determination of Project City Grant Payments, (ii) examine and make abstracts from any such accounting systems, books and records, and (iii) discuss the affairs, finances and accounts of the City pertaining to the City Sales and Use Tax Proceeds and the determination of Project City Grant Payments, with its officers, employees or agents, all at reasonable business times and upon reasonable notice; provided, however, that nothing in this section shall permit inspection of City tax records relating to any taxes other than the City Sales and Use Tax Proceeds with respect to taxpayers located within the Project Area.

(3) The review and analysis of 5.02(2) will be contingent upon compliance with the Alabama Taxpayer Bill of Rights provisions, penalties, and enforcement thereof. At no time will nonpublic confidential information be provided to any entity unless otherwise specified in accordance with law.

### **5.03 The Grant.**

(1) The obligation of the City to pay the Project City Grant Payments hereunder shall be evidenced by a single limited obligation Grant solely from, and secured on an equal and proportionate basis by a pledge of, so much of the City Sales and Use Tax Proceeds as shall be necessary to pay the Project City Grant Payments (the "**Grant**") as set forth in **Exhibit B**.

(2) The Grant shall bear no interest, shall be issued in an aggregate principal amount not exceeding the Total City Grant Commitment and subject to all the terms and conditions hereof, and shall be dated the date of delivery, and shall mature on the Termination Date.

(3) The Grant shall be duly executed, sealed, and attested by the City, and shall be registered by the City as a conditional claim against so much of the City Sales and Use Tax Proceeds as shall be necessary to pay the Project City Grant Payments with respect to such Grant and the Grant fund established therefor as therein provided.

(4) The Grant shall be registered and transferred as provided therein.

### **5.04 Special Agreements of the City.**

(1) All proceedings of the governing body of the City heretofore had and taken, and all resolutions and orders adopted pursuant thereto with respect to the levy and collection of the City Sales and Use Tax, are hereby ratified and confirmed in all respects from and after the effective date thereof.

(2) The City covenants and agrees:

(i) The City shall, if this Agreement and the Grant shall be outstanding, continue to levy and to provide for the assessment and collection of the Sales and Use taxes which provide the City Sales and Use Tax Proceeds at rates not less than those in effect on the date of this Agreement.

(ii) The City shall not apply any of the City Sales and Use Tax Proceeds which are allocable to or included as part of Project City Grant Payments for the payment of any governmental expenses of operating the City other than costs of collection of such taxes, as herein provided.

## 5.05 Special Agreements of the Owner.

- (1) Since this development utilized public funds set aside as a grant for purposes contained herein, certain protections must be in place to provide assurance to the public its' funds are utilized properly by terms contained herein within the "Grant" parameters. The Owner agrees to take all effort necessary to attain and continue full occupancy of this Project.

## ARTICLE 6

### EVENTS OF DEFAULT AND REMEDIES SECTION

#### 6.01 Events of Default

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

(a) default in the performance, or breach, of any covenant or warranty of the City in this Agreement, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the City by the Owner a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the City shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default; or

(b) default in the performance, or breach, of any covenant or warranty of the Owner in this Agreement, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Owner by the City a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the Owner shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default.

#### 6.02 Remedies

Each party hereto may, and each third-party beneficiary hereof may (subject to Section 6.03), proceed to protect its rights and interests by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any covenant or agreement of any other party herein contained or in aid of the exercise of any power or remedy available at law or in equity.

#### 6.03 Remedies Subject to Applicable Law

All rights, remedies and powers provided by this Agreement may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that the same will not render this Agreement invalid or unenforceable.

## ARTICLE 7



**PROVISIONS OF GENERAL APPLICATION SECTION**

**7.01 Enforceability**

The provisions of this Agreement shall be severable. In the event any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the remaining provisions hereof.

**7.02 Prior Agreements Cancelled**

This Agreement shall completely and fully supersede all other prior agreements, both written and oral, among the parties hereto relating to the matters contained herein. None of the parties hereto shall hereafter have any rights under any of such prior agreements but shall look to this Agreement for definition and determination of all their respective rights, liabilities and responsibilities relating to the matters contained herein.

**7.03 Counterparts**

This Agreement may be executed in counterparts, each of which shall constitute but one and the same agreement.

**7.04 Binding Effect; Governing Law**

(a) This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns except as otherwise provided herein.

(b) This Agreement shall be governed exclusively by the laws of the State of Alabama.

**7.05 Notices**

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

If to the City: Attn: Mayor and/or City Administrator  
1953 Municipal Way  
Alabaster, AL 35007

If to the Owner: PC Sweet Home Bama, LLC  
1301 Riverplace Blvd, Ste 1600  
Jacksonville, FL 33207

(b) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of three (3) days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier. Any such notice or other document delivered by mail must be sent with the return receipt required.

**7.06 Delegation and Assignment of this Agreement**

(a) The City shall have no authority or power to, and shall not, delegate to any person the duty or obligation to observe or perform any agreement or obligation of the City hereunder. Nothing in this section, however, shall prevent the City from engaging appropriate consultants, experts, agents or outside representatives to perform the City's obligations under this Economic Development Grant Agreement on behalf of the City.

(b) The City shall not have any authority or power to, and shall not, assign to any person any right of the City hereunder or any interest of the City herein.

(c) The Owner may assign the Grant payments as collateral for outstanding obligations and loans on the Project by filing with the City Administrator a properly executed collateral assignment that adequately informs the City of the assignment of the rights to payment of the Grant. Owner may not assign any of its obligations under this Agreement.

**7.07 Amendments**

This Agreement may be amended or supplemented only by an instrument in writing duly authorized, executed and delivered by each party hereto.

[Remainder of this page intentionally blank.]

**IN WITNESS WHEREOF**, the City has caused this Agreement to be executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and the Owner has executed this Agreement under seal, and the parties have caused this Agreement to be dated the date and year first above written.

**CITY**

**CITY OF ALABASTER, ALABAMA**

SEAL

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

ATTEST: \_\_\_\_\_  
City Clerk

**OWNER**

**PC SWEET HOME BAMA, LLC, a  
Delaware limited liability company**

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



## EXHIBIT B

## Schedule of Determination of Incentive Payments

Years	Quarters	Actual Receipt^^
1	1-4^	Two of five cents sales and use taxes from Michael's
2	5-8	Two of five cents sales and use taxes from Michael's
3	9-12	Two of five cents sales and use taxes from Michael's
4	13-16	Two of five cents sales and use taxes from Michael's
5	17-20	Two of five cents sales and use taxes from Michael's

^ Quarters are the three-month quarterly cycles beginning with October 1 of each year. However, the first quarter for purposes of this Schedule of Payments, and number of each quarter thereafter, shall be the city's quarter, or portion thereof, in which the Commencement Date occurs and "Michael's" shall first open for business and commence paying rent and sales and use tax.

**EXHIBIT C****SCHEDULE OF GRANT PAYMENTS**

All payments made in arrears after the closing of the quarterly books

Payment Due Date	Payment Period	Tax Collected from the Project
October 1	Previous Third Quarter	Previous April, May and June
January 2	Previous Fourth Quarter	Previous July, August, September
April 1	Previous First Quarter	Previous October, November, December
July 1	Previous Second Quarter	Previous January, February, and March

Council Member \_\_\_\_\_ introduced the following Resolution, which was seconded by Council Member \_\_\_\_\_ :

Item #9.



**RESOLUTION 091123-H**

**RESCINDING RESOLUTION 071323-A AND AUTHORIZING CHANGE ORDER FOR RESOLUTION 071323 TO INCLUDE ALLOWANCE FOR PURCHASE AND INSTALLATION OF TURF**

**WHEREAS**, on July 13, 2023, in Resolution 071323-A the City Council of the City of Alabaster, authorized an agreement with FieldTurf USA, INC for the purchase of turf for the Veterans Park 2023 Renovation in the amount of \$971,705; and,

**WHEREAS**, after further review and advice of counsel, administrative staff have recommended the rescinding of Resolution 071323-A, and its associated agreement, decreasing the cost of the project by (\$971,705); and,

**WHEREAS**, on July 13, 2023, the City Council of the City of Alabaster, also awarded the bid for the Veterans Park 2023 Renovation to Specialty Turf Supply, Inc in the amount of \$4,253,071; and,

**WHEREAS**, a change order for turf and installation at Veteran’s Park has been proposed whereby STS, Inc.’s contract will include all purchase and installation of turf; and,

**WHEREAS**, Resolution 071323 shall be amended to provide an allowance for the purchase and installation of turf for the Veterans Park Improvement Project 2023 in the amount of \$1,205,817.45, with a net change to the project in the amount of \$234,109.45.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALABASTER, ALABAMA, AS FOLLOWS:**

1. **Resolution 071323-A**, and the associated agreement between FieldTurf USA, INC in the amount of \$971,705 be and is hereby **rescinded**.
2. **Resolution 071323** be and is hereby **amended** to add a change order to provide an allowance for the purchase and installation of turf for the Veterans Park Improvement Project 2023.

**BE IT FURTHER RESOLVED**, the City Council of the City of Alabaster further authorizes the Mayor and City Clerk to take all actions necessary to enforce this resolution.

	Y / N		Y / N
Sophie Martin	_____	Jamie Cole	_____
Rick Ellis	_____	Zach Zahariadis	_____
Stacy Rakestraw	_____	Kerri Pate	_____
Greg Farrell	_____		

**ADOPTED AND APPROVED THIS 11TH DAY OF SEPTEMBER 2023.**

ATTEST:

CITY OF ALABASTER

\_\_\_\_\_  
J. Mark Frey, City Clerk

\_\_\_\_\_  
Greg Farrell, Council President Pro Tem

APPROVED:

\_\_\_\_\_  
Scott Brakefield, Mayor



September 11, 2023  
Project No.: 3658810

Mayor Scott Brakefield  
City of Alabaster  
1953 Municipal Way  
Alabaster, Alabama 35007

**RE: Veterans Park Renovations – Changer Order No. 1**

Dear Mayor Brakefield,

As you are aware, the City has decided to move the cost of materials for the diamond field turf to the construction contractor’s (Specialty Turf Supply, Inc.) scope of work. This comes after the turf supplier (FieldTurf) discovered an error in their pricing which mistakenly allocated costs disproportionately between the city and the STS. This decision was made at the advice of the city attorney.

As we have evaluated the pricing supplied to us, we have concluded that STS is due a change order in the amount of \$1,205,817.45. This number covers the original combined FieldTurf numbers, the delta in the installation that STS was negotiating, and incidentals associated with the statutory bonding requirements. See the summary below:

<u>Cost</u>	<u>Item Description</u>
\$1,024,989.00	Field Turf Materials Base Price
\$39,397.00	Field Turf Playground (Alt 2)
\$13,555.00	Field Turf Landscape Turf Upgrade
\$401,469.00	Field Turf Installation (Diamond Fields)
\$23,474.00	Field Turf Installation (Playground Turf)
\$16,907.45	Field Turf Bonding Cost
<u>\$9,500.00</u>	<u>STS Bonding Cost</u>
\$1,529,291.45	Subtotal of Turf and Playground Cost
<u>(\$323,474.00)</u>	<u>Deduct STS Original Installation Cost</u>
<b>\$1,205,817.45</b>	<b>Total for Change Order No. 1</b>

35 GRANDVIEW PARKWAY // SUITE 500 // BIRMINGHAM // ALABAMA // 35243 // 205-298-6074 // BARGEDESIGN.COM

Mayor Scott Brakefield  
September 11, 2023  
Page - 2

We recommend the City approve this change order at the next council meeting. Please contact me with any question or if you should need additional information to support this recommendation.

Respectfully,

**Barge Design Solutions, Inc.**



Christopher J. Grace, PE, Vice President  
Project Manager

- c: Mr. Fred Hawkins, PE, City
- Mr. Ernie Clark, City
- Mr. Casey Oliver, PE, Barge
- Mr. Steve Provost, PLA, ASLA, Barge

Council Member COLE introduced the following Resolution which was seconded by Council Member RAKESTRAW:

Item #9.



**RESOLUTION 071323**

**AWARDING BID FOR  
ALABASTER VETERANS PARK RENOVATIONS 2023**

**WHEREAS**, having previously been advertised, bids were received on Tuesday, July 11, 2023, by Barge Design Engineering Services, for the project of **Alabaster Veterans Park Renovations 2023** (approved by Resolution 121222-F); and

**WHEREAS**, one (1) responsible responsive bid was received from the following company:

- **SPECIALTY TURF SUPPLY, INC.**

Total Base Bid	\$3,468,328
Alternate #1 (Pickleball Install)	\$524,920
Alternate #2 (Playground)	\$203,961
Alternate #3	\$55,862

<b>Total</b>	<b>\$4,253,071</b>
--------------	--------------------

**WHEREAS**, the recommendation of Barge Design Engineering Services, along with the bid review committee is that **SPECIALTY TURF SUPPLY, INC.** be awarded bid as the lowest responsible responsive bidder in the amount of **\$3,468,328** plus Alternate #1 **\$524,920**, Alternate #2 **\$203,961** and Alternate #3 **\$55,862** for a total of **\$4,253,071**.

**NOW THEREFORE, BE IT RESOLVED, AS FOLLOWS:**

1. That the City Council of the City of Alabaster, Alabama, upon said recommendation move to award the lowest responsible responsive bid to **SPECIALTY TURF SUPPLY, INC.** in the amount of **\$4,253,071** for Alabaster Veterans Park Renovations 2023.
2. That the Finance Director is authorized to make any necessary budget adjustment as needed for this project.
3. That the Mayor and City Clerk are authorized to execute any and all documents necessary for this project and the supporting bid documents will be kept by the City Clerk on file as public record.

	Y / N		Y / N
Sophie Martin	<u>Y</u>	Jamie Cole	<u>Y</u>
Rick Ellis	<u>Y</u>	Zach Zahariadis	<u>Absent</u>
Stacy Rakestraw	<u>Y</u>	Kerri Pate	<u>Absent</u>
Greg Farrell	<u>Y</u>		

**RESOLUTION ADOPTED AND APPROVED THIS 13TH DAY OF JULY 2023.**


ATTEST:

CITY OF ALABASTER

  
J. Mark Frey, City Clerk

  
Sophie Martin, Council President

APPROVED:

  
Scott Brakefield, Mayor





**RESOLUTION 071323-A**

**A RESOLUTION TO ENTER AGREEMENT WITH FIELDTURF USA, INC RELATING TO THE VETERANS PARK IMPROVEMENT PROJECT 2023**

**WHEREAS**, the Mayor and City Council of the City of Alabaster, Alabama, have determined that it is both wise and expedient to enter into an agreement with FieldTurf USA, Inc. for artificial turf materials through the SourceWell Cooperative Contract for the Veterans Park Expansion Project 2023; and

**WHEREAS**, the purpose of the project is to provide the City of Alabaster with advanced athletic fields associated with the Veterans Park Expansion Project approved within the City of Alabaster’s Capital Budget; and

**WHEREAS**, said agreement with FieldTurf USA, Inc. will not require bidding due to being purchased through the Sourcewell Purchasing Cooperative Contract # 031622-FTU at a cost of **\$971,705**.

**BASE BID**

<b>FIELD NAME</b>	<b>Alabaster – Veterans Park Fields 1-5</b>
<b>SQUARE FOOTAGE</b>	Approx. 236,535 ft <sup>2</sup> – Softball fields Approx. 20,555 ft <sup>2</sup> - Landscape
<b>FIELD MARKINGS</b>	Inlaid Softball Markings
<b>TURF FIELDS PRICE</b>	<b>\$ 924,622.00</b>
<i>Maintenance Equipment (not included)</i>	<i>\$ 4,937.00 (GreensGroomer)</i>

**\*\*\*Proposal and warranty only valid if installed by a certified FieldTurf Installer.**

**ALTERNATE PRICE**

<b>ADD Alternate No. 2: PLAYGROUND</b>	<b>LUMP SUM</b>
Materials for 6,650 ft <sup>2</sup> of <b>Command PLAY</b> Turf w/3lbs sand per ft <sup>2</sup> over a 2" Turf Cushion Pad	ADD
<b>Total</b>	<b>\$ 33,528.00</b>

<b>VOLUNTARY ALTERNATE / Landscape turf upgrade</b>	<b>LUMP SUM</b>
Materials for 20,555 ft <sup>2</sup> of <b>Command Core</b> landscape turf w/3lbs sand per ft <sup>2</sup> .	ADD
<b>Total</b>	<b>\$ 13,555.00</b>

**BE IT RESOLVED**, that the City Council of the City of Alabaster, does hereby authorize Scott Brakefield, Mayor of the City of Alabaster to sign and Mark Frey, City Clerk, to attest and file all documentation necessary to enter into said contract.

**BE IT FURTHER RESOLVED**, that the Finance Director is authorized to make any necessary budget adjustment as needed for this project.

	Y / N		Y / N
Sophie Martin	<u>Y</u>	Jamie Cole	<u>Y</u>
Rick Ellis	<u>Y</u>	Zach Zahariadis	<u>Absent</u>
Stacy Rakestraw	<u>Y</u>	Kerri Pate	<u>Absent</u>
Greg Farrell	<u>Y</u>		

**ADOPTED AND APPROVED THIS 13TH DAY OF JULY 2023.**

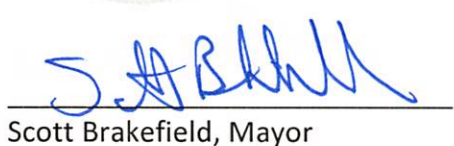
ATTEST:

  
J. Mark Frey, City Clerk

CITY OF ALABASTER

  
Sophie Martin, Council President

APPROVED

  
Scott Brakefield, Mayor

Council Member \_\_\_\_\_ introduced the following Resolution, which was seconded by Council Member \_\_\_\_\_.



**RESOLUTION 091123-I**

**A RESOLUTION AUTHORIZING RIGHT-OF-WAY ACQUISITION AGREEMENT FOR A FEDERAL AID PROJECT NO. STPBH-0119( )**

**BE IT RESOLVED**, by the City of Alabaster as follows:

That the City enter into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation (ALDOT) relating to a project for:

**Additional lanes on SR-119 from Silver Creek Parkway to CR-12 including a multi-use path from Veterans Park to CR-26- Phase II; Project# STPBH-0119( ); CPMS Ref# 100074590.**

Which agreement is before this Council, and that the agreement be executed in the name of the City, by the Mayor for and on its behalf and that it be attested by the City Clerk and the official seal of the City be affixed thereto.

**BE IT FURTHER RESOLVED**, that upon the completion of the execution of the agreement by all parties, that a copy of such agreement be kept on file by the City.

	Y / N		Y / N
Sophie Martin	_____	Jamie Cole	_____
Rick Ellis	_____	Zach Zahariadis	_____
Stacy Rakestraw	_____	Kerri Pate	_____
Greg Farrell	_____		

**ADOPTED AND APPROVED THIS 11TH DAY OF SEPTEMBER 2023.**

I, the undersigned qualified and acting Clerk of the City of Alabaster, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City named therein, at a regular meeting of such Council held on the **11th day of September, 2023**, and that such resolution is on file in the City Clerk's Office.

ATTEST:

CITY OF ALABASTER

\_\_\_\_\_  
J. Mark Frey, City Clerk

\_\_\_\_\_  
Greg Farrell, Council President Pro Tem

APPROVED:

\_\_\_\_\_  
Scott Brakefield, Mayor

**RIGHT-OF-WAY  
ACQUISITION  
AGREEMENT  
FOR A  
FEDERAL AID  
PROJECT**

**BETWEEN THE STATE OF ALABAMA  
AND  
THE CITY OF ALABASTER  
Shelby County**

**Project No. STPBH-0119( )  
CPMS Ref# 100074590**

**PART ONE (1): INTRODUCTION**

This Agreement is made and entered into by and between the State of Alabama (acting by and through the Alabama Department of Transportation), hereinafter referred to as the STATE; and the City of Alabaster, Alabama, hereinafter referred to as the CITY.

**WHEREAS**, the STATE and the CITY desire to cooperate in the additional lanes on SR-119 from Silver Creek Parkway to CR-12 including a multi-use path from Veterans Park to CR-26 – Phase II; Project# STPBH-0119( ); CPMS Ref# 100074590.

**NOW, THEREFORE**, it is mutually agreed between the STATE and the CITY as follows:

**PART TWO (2): FUNDING PROVISIONS**

- A. **Project Funding:** The STATE will not be liable for Federal Aid Funds in any amount. The project will be limited to \$1,200,000.00 Federal funds unless the Birmingham Area Metropolitan Planning Organization agrees, subject to the approval of the STATE, to reprogram the allocated Federal funds for the Birmingham Area sufficient to pay 80% of the project cost. In the event of an underrun in project costs, the amount of Federal Aid funds will be the amount stated below, or 80% of eligible project costs, whichever is less.
- B. The estimated cost and participation by the various parties is as follows:

FUNDING SOURCE	ESTIMATED COSTS
FA STP Funds (Birmingham Area Dedicated)	\$ 1,200,000.00
City Funds	\$ 300,000.00
	-----
TOTAL	\$ 1,500,000.00

Any cost incurred by the CITY relating to this project which is determined to be ineligible for reimbursement by the Federal Highway Administration (FHWA) or in excess of the limiting amounts previously stated will not be an eligible cost to the project and will be borne and paid by the CITY.

- C. **Time Limit:** This project will commence upon written authorization to proceed from the STATE directed to the CITY.

The approved allocation of funds for projects containing Industrial Access funds shall lapse if a contract has not been awarded for construction of the project within (12) months of the date of the funding approval by the Board and the approved allocation shall be returned to the IARB for re-allocation. A time extension may be approved by the IARB upon formal request by the applicant.

The approved allocation of funds for projects containing Federal Transportation Alternatives Set-Aside funds may lapse if a project has not been authorized by FHWA within (24) months of the date of the funding approval by the Governor and the approved allocation shall be returned to the STATE for re-allocation. A time extension may be approved by the STATE upon formal request by the applicant. Failure to meet other project milestones, as set forth in the TAP Guidelines, may result in an approved allocation being returned to the STATE.

### PART THREE (3): PROJECT SERVICES

- A. The STATE will furnish all Right-of-Way for the project. Associated Right-of-Way acquisition costs will not be an eligible cost as part of this Agreement. The Right-of-Way acquisition phase is hereby defined as the appraisal fees, appraisal review fees and the cost of acquisition incurred.

All work accomplished under the provisions of this agreement will be accomplished on property owned by or which will be acquired by the STATE in accordance with applicable Federal and state laws, regulations, and procedures. In cases where property is leased or easements obtained, the terms of the lease or easement will not be less than the expected life of the improvements.

Acquisition of real property by the STATE as a part of this project will conform to and be in accordance with the provisions of the Federal Uniform Relocation Assistance & Real Property Acquisition Policies Act (49 CFR 24, Subpart B), all federal environmental laws, and all other applicable state and federal laws.

Any property acquired shall be in the name of the STATE with any condemnation or other legal proceedings being performed by the STATE.

The STATE shall follow all Federal regulations related to the Management, Leasing, and Disposal of Right-of-Way, uneconomic remnants and excess Right-of-Way as found in CFR 23 § 710 Subpart D. Proceeds for Leases and Disposals shall be credited to the Project or to the Title 23 Collector Account.

No change in use or ownership of real property acquired or improved with funds provided under the terms of this Agreement will be permitted without prior written approval from the STATE or FHWA. The STATE or FHWA will be credited on a prorata share, as provided in Part Two, Section B, any revenues received by the CITY from the sale or lease of property.

- B. The CITY will relocate any utilities in conflict with the project improvements in accordance with applicable Federal and State laws, regulations, and procedures. Associated Utility costs will not be an eligible cost as part of this Agreement.
- C. The CITY will make the Survey, perform the Design, complete the Plans and furnish all Preliminary Engineering for the project with CITY forces or with a consultant approved by the STATE. Associated Survey, Design, Plan Preparation, and Preliminary Engineering costs will not be an eligible cost as part of this Agreement.

If any Associated Survey, Design, Plan Preparation, and Preliminary Engineering costs are an eligible cost to the project, the CITY will develop and submit to the STATE a project budget for approval. This budget will be in such form and detail as may be required by the STATE. At a minimum, all major work activities will be described, and an estimated cost and source of funds will be indicated for each activity. A signature line

will be provided for approval by the Region Engineer and date of such approval. All cost for which the CITY seeks reimbursement must be included in a budget approved by the STATE in order to be considered for reimbursement. Budget adjustments may be necessary and may be allowed, subject to the approval of the STATE in writing, in order to successfully carry out the project. However, under no circumstances will the CITY be reimbursed for expenditures over and beyond the amount approved by the STATE.

The CITY will undertake the project in accordance with this Agreement, plans approved by the STATE and the requirements, and provisions, including the documents relating thereto, developed by the CITY and approved by the STATE. The plans, including the documents relating thereto, is of record in the Alabama Department of Transportation and is hereby incorporated in and made a part of this Agreement by reference. It is understood by the CITY that failure of the CITY to carry out the project in accordance with this Agreement and approved plans, including documents related thereto, may result in the loss of federal funding and the refund of any federal funds previously received on the project.

Projects containing Industrial Access funds or State funds, with no Federal funds involved, shall have completed original plans furnished to the STATE in accordance with the Guidelines for Operations for *Procedures for Processing State and Industrial Access Funded County and City Projects*, and attached hereto as a part of this Agreement prior to the CITY letting the contract.

- D. The CITY will furnish all construction engineering for the project with CITY forces or with a consultant approved by the STATE as part of the cost of the project. Construction Engineering & Inspection cost are not to exceed 15%, without prior approval by the State. Associated Construction Engineering & Inspection costs will not be an eligible cost as part of this Agreement.
- E. The STATE will furnish the necessary inspection and testing of materials when needed as part of the cost of the project. The CITY may request the use of an approved third-party materials inspection and testing provider, as approved by the STATE.

#### **PART FOUR (4): CONTRACT PROVISIONS**

- A. The CITY shall not proceed with any project work covered under the provisions of this Agreement until the STATE issues written authorization to the CITY to proceed.
- B. Associated Construction cost will not be an eligible cost as part of this Agreement.

For projects let to contract by the STATE, the STATE will be responsible for advertisement and receipt of bids, and the award of the Contract. Following the receipt of bids and prior to the award of the Contract, the STATE will invoice the CITY for its pro rata share of the estimated cost as reflected by the bid of the successful bidder plus Engineering & Inspection and Indirect Costs (if applicable). The CITY shall pay this amount to the STATE no later than 30 days after the date bids are opened. Failure to do so may lead to the rejection of the bid.

For projects let to contract by the CITY, the CITY shall comply with all Federal and State laws, rules, regulations and procedures applicable to the advertisement, receipt of bids, and the award of the contract. The CITY will, when authorized by the STATE, solicit bids and make awards for construction and/or services pursuant to this agreement. The CITY shall not solicit bids until the entire bid package (plans, specifications, estimates, etc.) has been reviewed and approved by the STATE. Following receipt of bids, the CITY will provide all bids to the STATE with a recommendation for award. The CITY shall not award the contract until it has received written approval from the STATE.

For projects with approval by the STATE to use CITY Forces, the Construction for the project will be performed by the CITY at actual costs for labor, materials, and equipment, as approved by the STATE.



The purchase of project equipment and/or services financed in whole or in part pursuant to this Agreement will be in accordance with applicable Federal and State laws, rules, regulations, and procedures, including state competitive bidding requirements applicable to counties and municipalities in the State of Alabama when the purchase is made by any such entity.

- C. If necessary, the CITY will file an Alabama Department of Environmental Management (ADEM) National Pollutant Discharge Elimination System (NPDES) Notice of Registration (NOR) (Code Chapter 335-6-12) for this project without cost to the State or this project. The CITY will be the permittee of record with ADEM for the permit. The CITY and the contractor will be responsible for compliance with the permit and the State will have no obligation regarding the permit. The CITY will furnish the State (Region) a copy of the permit prior to any work being performed by the contractor.

The CITY will secure all permits and licenses of every nature and description applicable to the project in any manner and will conform to and comply with the requirements of any such permit or license, and with each and every requirement of any and all agencies, and of any and all lawful authorities having jurisdiction or requirements applicable to the project or to the project activities.

- D. The CITY will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, Latest Edition, on this project and will ensure that work associated on this project meets the standards of the Alabama Department of Transportation and the project will be built in accordance with the approved plans.
- E. Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), the CITY shall indemnify, and hold harmless the State of Alabama, the Alabama Department of Transportation, its officers, officials, agents, servants, and employees from and against (1) claims, damages, losses, and expenses, including but not limited to attorneys' fees arising out of, connected with, resulting from or related to the work performed by the CITY, or its officers, employees, contracts, agents or assigns (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the CITY pursuant to the terms of this Agreement, or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but not limited to attorneys' fees, caused by the negligent, careless or unskillful acts of the CITY its agents, servants, representatives or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the CITY, its agents, servants, representatives or employees, or anyone for whose acts the CITY may be liable.
- F. The CITY will be obligated for the payment of damages occasioned to private property, public utilities or the general public, caused by the legal liability (in accordance with Alabama and/or Federal law) of the CITY, its agents, servants, employees or facilities.
- G. Upon completion and acceptance of this project by the State, the CITY will assume full ownership and responsibility for the project work and maintain the project in accordance with applicable State law and comply with the Department's Local Road Maintenance Certification Policy.

#### **PART FIVE (5): ACCOUNTING PROVISIONS**

- A. The CITY will, when appropriate, submit reimbursement invoices to the STATE for work performed in carrying out the terms of this Agreement. Requests for reimbursement will be made on forms provided by the STATE and will be submitted through the Region Engineer for payment. The CITY may invoice the STATE not more often than once per month for the funds due for work performed under this Agreement. Invoices for payment will be submitted in accordance with state law and will indicate that the payment is due, true, correct, unpaid, and the invoice will be notarized. Invoices for any work performed under the terms of this agreement will be submitted within twelve (12) months after the

completion and acceptance by the STATE for the work. Any invoices submitted after this twelve-month period will not be eligible for payment.

- B. The CITY will not assign any portion of the work to be performed under this Agreement or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement, without the prior written approval of the STATE.
- C. The CITY will establish and maintain a cost accounting system that must be adequate and acceptable to the STATE as determined by the auditor of the STATE.

All charges to the Project will be supported by properly executed invoices, contracts, or vouchers, as applicable, evidencing in proper detail the nature and propriety of the charges, in accordance with the requirements of the STATE. All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the project will be clearly identified, readily accessible and to the maximum extent feasible, kept separate and apart from all other such documents.

The CITY will report to the STATE the progress of the project in such manner as the STATE may require. The CITY will also provide the STATE any information requested by the STATE regarding the project. The CITY will submit to the STATE financial statements, data, records, contracts and other documents and items of any respect related to the project as may be requested by the STATE.

The CITY will permit the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, to inspect, at any time, vehicles and equipment utilized or used in performance of the project; any and all data and records which in any way relate to the project or to the accomplishment of the project. The CITY will also permit the above noted persons to audit the books, records and accounts pertaining to the project at any and all times, and the CITY will give its full cooperation to those persons or their authorized representatives, as applicable.

The CITY will comply with all audit requirements set forth in the 2 CFR Part 200 requirements, or the most current version of those requirements under federal law.

- D. The CITY will retain all books, records, and other documents relative to this Agreement for a minimum of three (3) years after project termination, expiration of Federal interest, or close out, and the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, will have full access to, and right to examine any of said materials at all reasonable times during said period.
- E. Any user fee or charge to the public for access to any property or services provided through the funds made available under this agreement, if not prohibited by a Federal, State or local law, must be applied for the maintenance and long-term upkeep of the project authorized by this agreement.
- F. An audit report must be filed with the Department of Examiners of Public Accounts, upon receipt by the CITY, for any audit performed on this project in accordance with Act No. 94-414.

#### **PART SIX (6): MISCELLANEOUS PROVISIONS**

- A. By entering into this agreement, the CITY is not an agent of the STATE, its officers, employees, agents or assigns. The CITY is an independent entity from the STATE and nothing in this agreement creates an agency relationship between the parties.
- B. It is agreed that the terms and commitments contained in this agreement shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment 26. It is further agreed that any provision of this agreement shall contravene any statute or Constitutional provision

or amendment, either now in effect or which may, during the course of this agreement, be enacted, then the conflicting provision in this agreement shall be deemed null and void.

- C. 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.
- D. No member, officer, or employee of the CITY during their tenure of employment, and for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds, profits, or benefits therefrom.
- E. The terms of this Agreement may be modified by revision of this Agreement duly executed by the parties hereto.
- F. This agreement may be terminated by either party upon the delivery of a thirty (30) day notice of termination.
- G. Nothing shall be construed under the terms of this Agreement that shall cause any conflict with Section 23-1-63, Code of Alabama, 1975.
- H. **Exhibits A, E, H, M, and N** are hereby attached to and made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by those officers, officials and persons duly authorized to execute same, and the Agreement is deemed to be dated and to be effective on the date hereinafter stated as the date of its approval by the Governor of Alabama.

ATTEST:

City of Alabaster, Alabama

By: \_\_\_\_\_  
City Clerk (Signature)

By: \_\_\_\_\_  
As Mayor (Signature)

\_\_\_\_\_  
Type Name of Clerk  
(AFFIX SEAL)

\_\_\_\_\_  
Type Name of Mayor

This agreement has been legally reviewed and approved as to form and content.

By: \_\_\_\_\_  
William F. Patty,  
Chief Counsel

RECOMMENDED FOR APPROVAL:

\_\_\_\_\_  
DeJarvis Leonard, P.E.  
East Central Region Engineer

\_\_\_\_\_  
Bradley B. Lindsey, P.E.  
State Local Transportation Engineer

\_\_\_\_\_  
Edward N. Austin, P. E.  
Chief Engineer

STATE OF ALABAMA, ACTING BY AND THROUGH  
THE ALABAMA DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
John R. Cooper, Transportation Director

THE WITHIN AND FOREGOING AGREEMENT IS HEREBY EXECUTED AND  
SIGNED BY THE GOVERNOR ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
KAY IVEY  
GOVERNOR, STATE OF ALABAMA

RESOLUTION NUMBER \_\_\_\_\_

BE IT RESOLVED, by the City of Alabaster as follows:

That the City enter into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation relating to a project for:

**Additional lanes on SR-119 from Silver Creek Parkway to CR-12 including a multi-use path from Veterans Park to CR-26 – Phase II; Project# STPBH-0119( ); CPMS Ref# 100074590.**

Which agreement is before this Council, and that the agreement be executed in the name of the City, by the Mayor for and on its behalf and that it be attested by the City Clerk and the official seal of the City be affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the agreement by all parties, that a copy of such agreement be kept on file by the City.

I, the undersigned qualified and acting Clerk of the City of Alabaster, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City named therein, at a regular meeting of such Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and that such resolution is on file in the City Clerk's Office.

ATTESTED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and that such resolution is of record in the Minute Book of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

(AFFIX SEAL)

**STD CONTRACT EXHIBITS**

REV. 9/19/16

## EXHIBIT A

**PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN FEDERAL-AID PROGRAM**

Policy. It is the policy of the U.S. Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this AGREEMENT. Consequently, the DBE requirements of 49 CFR Part 26 apply to this AGREEMENT.

DBE Obligation. The recipient of funds under the terms of this AGREEMENT agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. The recipient shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to see that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts and shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of U.S. Department of Transportation assisted contracts.

Failure of the recipient of funds under the terms of this AGREEMENT, or failure of its subcontractor (if a subcontractor is authorized) to carry out the DBE requirements of this AGREEMENT shall constitute a breach of contract, and may result in termination of the contract by the STATE, or such other remedy may be undertaken by the STATE as it deems appropriate.

**STD CONTRACT EXHIBITS**  
**REV. 9/19/16**

EXHIBIT E

**TERMINATION OR ABANDONMENT**

- a. The STATE has the right to abandon the work or to amend its project at any time, and such action on its part shall in no event be deemed a breach of contract.
  
- b. The STATE has the right to terminate this AGREEMENT at its sole discretion without cause and make settlement with the CITY upon an equitable basis. The value of the work performed by the CITY prior to the termination of this AGREEMENT shall be determined. In determining the value of the work performed, the STATE shall consider the following:
  1. The ratio of the amount of work performed by the CITY prior to the termination of the AGREEMENT to the total amount of work contemplated by this AGREEMENT less any payments previously made.
  
  2. The amount of the expense to which the CITY is put in performing the work to be terminated in proportion to the amount of expense to which the CITY would have been put had he been allowed to complete the total work contemplated by the AGREEMENT, less any payments previously made. In determining the value of the work performed by the CITY prior to the termination, no consideration will be given to profit, which the CITY might have made on the uncompleted portion of the work. If the termination is brought about as a result of unsatisfactory performance on the part of the CITY, the value of the work performed by the CITY prior to termination shall be fixed solely on the ratio of the amount of such work to the total amount of work contemplated by this AGREEMENT.

**CONTROVERSY**

In any controversy concerning contract terms, or on a question of fact in connection with the work covered by this project, including compensation for such work, the decision of the Transportation Director regarding the matter in issue or dispute shall be final and conclusive of all parties.

**CONTRACT BINDING ON SUCCESSORS AND ASSIGNS**

- a. This contract shall be binding upon the successors and assigns of the respective parties hereto.
  
- b. Should the AGREEMENT be terminated due to default by CITY, such termination shall be in accordance with applicable Federal Acquisition Regulations.

## STD CONTRACT EXHIBITS

REV. 9/19/16

## EXHIBIT H

Page 1

**EQUAL RIGHTS PROVISIONS**

During the performance of this contract, the CITY for itself, its assignees and successors in interest agrees as follows:

a. **Compliance with Regulations**

The CITY will comply with the Regulations of the Department of Transportation relative to nondiscrimination in federally-assigned programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, as amended by 23 CFR 710-405(b), hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;



STD CONTRACT EXHIBITS  
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EXHIBIT H

Page 2

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

b. **Nondiscrimination**

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CITY agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. The CITY will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices where the contract covers a program set forth in Appendix B of the Regulations.

The CITY will comply with all provisions of Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.

c. **Solicitations**

In all solicitations either by competitive bidding or negotiation made by the CITY for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor, supplier or lessor shall be notified by the CITY of the CITY'S obligation under this contract and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex or national origin.

d. **Information and Reports**

The CITY will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books,

**STD CONTRACT EXHIBITS**  
**REV. 9/19/16**

EXHIBIT H

Page 3

records, accounts, other sources of information and its facilities as may be determined by the STATE or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CITY is in the exclusive possession of another who fails or refuses to furnish this information, the CITY shall so certify to the STATE, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. **Sanctions for Noncompliance**

In the event of the CITY'S noncompliance with the nondiscrimination provisions provided for herein, the STATE shall impose such contract sanctions as it may determine to be appropriate, including but not limited to,

1. withholding of payments to the CITY under contract until the CITY complies, and/or
2. cancellation, termination or suspension of the contract, in whole or in part.

f. **Incorporation of Provisions**

The CITY will include the foregoing provisions a. through f. in every subcontract, including procurements of materials and leases of equipment, unless excepted by the Regulations, orders or instructions issued pursuant thereto. The CITY will take such action with respect to any subcontract, procurement, or lease as the STATE may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a CITY becomes involved in, or is threatened with, litigation with subcontractors, suppliers, or lessor as a result of such direction, the CITY may request the STATE to enter into such litigation to protect the interest of the STATE.

g. **Equal Employment Opportunity** – The following equal employment opportunity requirements apply to the underlying contract:

1. **Race, Color, Creed, National Origin, Sex** – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal Transit laws at 49 U.S.C. § 5332, the CITY agrees to comply with all applicable equal employment requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project.

**STD CONTRACT EXHIBITS  
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EXHIBIT H  
Page 4

The CITY agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CITY agrees to comply with any implementing requirements FTA may issue.

2. Age – In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the CITY agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CITY agrees to comply with any implementing requirements FTA may issue.
  
3. Disabilities – In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CITY agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**COST PRINCIPLES**

The STATE'S cost principles for use in determining the allowability of any item of cost, both direct and indirect, in this AGREEMENT, shall be the applicable provisions of Volume I, Federal Acquisition Regulations, Parts 30 and 31. The CITY shall maintain costs and supporting documentation in accordance with the Federal Acquisition Regulations, Parts 30 and 31 and other Regulations referenced with these Parts where applicable. The CITY shall gain an understanding of these documents and regulations. The applicable provisions of the above referenced regulations documents are hereby incorporated by reference herein as if fully set forth.

**EXECUTORY CLAUSE AND NON-MERIT SYSTEM STATUS**

- a. The CITY specifically agrees that this AGREEMENT shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the STATE beyond the moneys available for this purpose.

**STD CONTRACT EXHIBITS**  
**REV. 9/19/16**

EXHIBIT H

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- b. The CITY, in accordance with the status of CITY as an independent contractor, covenants and agrees that the conduct of CITY will be consistent with such status, that CITY will neither hold CITY out as, or claim to be, an officer or employee of the STATE by reason hereof, and that CITY will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the STATE under the merit system or any other law of Alabama, including but not limited to workmen's compensation coverage, or retirement membership or credit or any Federal employment law. This paragraph also applies in like manner to the employees of CITY.

**CITYS' CERTIFICATIONS**

The CITY by acceptance of this contract certifies that the rates or composition of cost noted in Article IV - PAYMENTS are based on the current actual hourly rates paid to employees, estimated non- salary direct cost based on historical prices, the latest available audited indirect cost rate, and estimated cost of reimbursements to employees for travel (mileage, per diem, and meal allowance) based on the current policy of the CITY. The CITY agrees that mileage reimbursements for use of company vehicles is based on the lesser of the approved rate allowed by the General Services Administration of the United States Government or the reimbursement policies of the CITY at the time of execution of the AGREEMENT. The CITY agrees that no mileage reimbursement will be allowed for the purpose of commuting to and from work or for personal use of a vehicle. The CITY agrees that the per diem rate will be limited to the rate allowed by the STATE at the time of execution of the AGREEMENT. The CITY agrees that a meal allowance shall be limited to CITY employees while in travel status only and only when used in lieu of a per diem rate.

The CITY shall submit detailed certified labor rates as requested, and in a timely manner, to the External Audits Section of the Finance and Audits Bureau of The Alabama Department of Transportation. The CITY agrees that material differences between rates submitted with a proposal and rates provided as certified for the same proposal are subject to adjustment and reimbursement.

STD CONTRACT EXHIBITS  
REV. 9/19/16

EXHIBIT M

**CERTIFICATION FOR FEDERAL-AID CONTRACTS: LOBBYING**

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative AGREEMENT, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the prospective participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement or other instrument as might be applicable under Section 1352, Title 31, U.S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

**STD CONTRACT EXHIBITS  
REV. 9/19/16**

EXHIBIT N

**FUNDS SHALL NOT BE CONSTITUTED AS A DEBT**

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this AGREEMENT shall contravene any statute or Constitutional provision of amendment, either now in effect or which may, during the course of this AGREEMENT, be enacted, then the conflicting provision in the AGREEMENT shall be deemed null and void.

When considering settlement of controversies arising from or related to the work covered by this AGREEMENT, the parties may agree to use appropriate forms of non-binding alternative dispute resolution.

**TERMINATION DUE TO INSUFFICIENT FUNDS**

- a. If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.
- b. In the event of proration of the fund from which payment under this AGREEMENT is to be made, agreement will be subject to termination.

**NO GOVERNMENT OBLIGATION TO THIRD PARTY CONTRACTORS**

The STATE and CITY acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations of or liabilities to the STATE, CITY, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The CITY agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided to FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**STATE OF ALABAMA  
DEPARTMENT OF TRANSPORTATION  
GUIDELINES FOR OPERATION**

**SUBJECT: PROCEDURES FOR PROCESSING STATE AND INDUSTRIAL  
ACCESS FUNDED COUNTY AND CITY PROJECTS**

No work can be performed and no contracts can be let prior to having a fully executed project agreement, submittal of project plans to Region and notification from the Region that advertisement for bids can be made, or, in the case of force account projects, work can begin.

A project agreement will be prepared and furnished to the County/City upon receipt of grant award letter signed by the Director or Governor. The Region will prepare and submit a F-7A Budget Allotment request upon receipt of a project funding agreement at the time it is submitted to the County/City for their execution.

The County/City will submit plans prepared and signed by a registered professional engineer showing work to be performed. Plans must match the project agreement description. It is not necessary for the Region to perform an in-depth review of plans. The County/City will submit a certification signed by a Registered Professional Engineer stating that the plans have been prepared so that all items included in the plans meet ALDOT specifications. The County/City will include a letter certifying that the County/City owns all right-of-way on which the project is to be constructed.

Upon receipt of the executed agreement, the executed F-7A, final plans from the County/City, and right-of-way certification, the Region may notify the County/City to proceed with advertising the project for letting or proceed with work in the case of a force account project.

In the case where a County/City is using an inplace annual bid, the County/City will furnish the Region a copy of their bid and this bid price will be used for reimbursement.

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Rev. 10/2017

Where the County/City is letting a contract locally, the County/City will furnish to the Region the three lowest bids with their recommendation for award. The Region will review the bids, and, if in order, advise the County/City to proceed with award of the contract to the lowest responsible bidder. The County's/City's estimate for reimbursement will be based on the bid prices concurred in by the State and supported with documentation that the contractor has been paid for work performed (copy of cancelled check).

A certification will be submitted with County/City final estimate stating that the project was constructed in accordance with final plans submitted to the State and with the specifications, supplemental specifications, and special provisions which were shown on the plans or with the State's latest specifications which were applicable at the time of plan approval.

The County/City will notify the Region when the project is complete and the Region will perform a final ride-through to determine whether the project was completed in substantial compliance with original final plans. Final acceptance will be made by the Region with a copy of the letter furnished to the Bureau of Local Transportation.

All required test reports, weight tickets, material receipts and other project documentation required by the specifications, applicable supplemental specifications, and special provisions will be retained by the County/City for a period of three (3) years following receipt of final payment and made available for audit by the State upon request. If an audit is performed and proper documentation is not available to verify quantities and compliance with specifications, the County/City will refund the project cost to the State or do whatever is necessary to correct the project at their cost.

All County/City Industrial Access or State funded projects let to contract by the State will follow normal project procedures and comply with all current plan processing requirements.

RECOMMENDED FOR APPROVAL:

  
BUREAU CHIEF/REGION ENGINEER

APPROVAL:   
CHIEF ENGINEER

APPROVAL:   
TRANSPORTATION DIRECTOR

NOVEMBER 1, 2017  
DATE



Council Member \_\_\_\_\_ introduced the following Resolution, which was seconded by Council Member \_\_\_\_\_.



**RESOLUTION 091123-J**

**A RESOLUTION AUTHORIZING UTILITY AND CONSTRUCTION AGREEMENT FOR A FEDERAL AID PROJECT NO. STPBH-0119( )**

**BE IT RESOLVED**, by the City of Alabaster as follows:

That the City enter into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation relating to a project for:

**Additional lanes on SR-119 from Silver Creek Parkway to CR-12 including a multi-use path from Veterans Park to CR-26- Phase II; Project# STPBH-0119( ); CPMS Ref# 100076801 and 100076800.**

Which agreement is before this Council, and that the agreement be executed in the name of the City, by the Mayor for and on its behalf and that it be attested by the City Clerk and the official seal of the City be affixed thereto.

**BE IT FURTHER RESOLVED**, that upon the completion of the execution of the agreement by all parties, that a copy of such agreement be kept on file by the City.

	Y / N		Y / N
Sophie Martin	_____	Jamie Cole	_____
Rick Ellis	_____	Zach Zahariadis	_____
Stacy Rakestraw	_____	Kerri Pate	_____
Greg Farrell	_____		

**ADOPTED AND APPROVED THIS 11TH DAY OF SEPTEMBER 2023.**

I, the undersigned qualified and acting Clerk of the City of Alabaster, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City named therein, at a regular meeting of such Council held on the **11th day of September, 2023**, and that such resolution is on file in the City Clerk's Office.

ATTEST:

CITY OF ALABASTER

\_\_\_\_\_  
J. Mark Frey, City Clerk

\_\_\_\_\_  
Greg Farrell, Council President Pro Tem

APPROVED:

\_\_\_\_\_  
Scott Brakefield, Mayor

UTILITY  
AND  
CONSTRUCTION  
AGREEMENT  
FOR A  
FEDERAL AID  
PROJECT

BETWEEN THE STATE OF ALABAMA  
AND  
THE CITY OF ALABASTER  
Shelby County

Project No. STPBH-0119( )  
CPMS Ref# 100076801 & 100076800

PART ONE (1): INTRODUCTION

This Agreement is made and entered into by and between the State of Alabama (acting by and through the Alabama Department of Transportation), hereinafter referred to as the STATE; and the City of Alabaster, Alabama, hereinafter referred to as the CITY.

WHEREAS, the STATE and the CITY desire to cooperate in the additional lanes on SR-119 from Silver Creek Parkway to CR-12 including a multi-use path from Veterans Park to CR-26 – Phase II; Project# STPBH-0119( ); CPMS Ref# 100076801 and 100076800.

NOW, THEREFORE, it is mutually agreed between the STATE and the CITY as follows:

PART TWO (2): FUNDING PROVISIONS

- A. **Project Funding:** Funding for this Agreement is subject to availability of Federal Aid funds at the time of authorization. The project will be limited to \$5,000,000.00 Federal STPAA Funds. The project will be limited to \$5,500,000.00 Federal MPO funds unless the Birmingham Area Metropolitan Planning Organization agrees, subject to the approval of the STATE, to reprogram the allocated Federal funds for the Birmingham Area sufficient to pay their proportional share of project cost. The construction scope will be financed as a 50/50 split up to \$10,000,000.00 in Federal Funds with STPAA Funds and CITY match at 50% and the Federal MPO Funds and CITY match at 50%. Any overruns not covered by the MPO will be borne by the CITY from CITY funds. In the event of an underrun, the construction costs will be based on the 50/50 split.
- B. The estimated cost and participation by the various parties is as follows:

UTILITY

FUNDING SOURCE	ESTIMATED COSTS
FA STP Funds (Birmingham Area Dedicated)	\$ 500,000.00
City Funds	\$ 125,000.00
	-----
TOTAL (Incl. E & I)	\$ 625,000.00

CONSTRUCTION

FUNDING SOURCE	ESTIMATED COSTS
Federal STPAA Funds	\$ 5,000,000.00
FA STP Funds (Birmingham Area Dedicated)	\$ 5,000,000.00
City Funds	\$ 2,500,000.00
	-----
TOTAL (Incl. E & I)	\$ 12,500,000.00

The \$5,000,000.00 in Federal STPAA Funds utilized for the Construction Scope of this project is based on the Memorandum of Understanding, dated March 21, 2023, between the STATE and the CITY.

It is further understood that this is a cost reimbursement program and no federal funds will be provided to the CITY prior to accomplishment of the work for which it is requested. Furthermore, no federal funds will be reimbursed for work performed prior to project authorization.

Any cost incurred by the CITY relating to this project which is determined to be ineligible for reimbursement by the Federal Highway Administration (FHWA) or in excess of the limiting amounts previously stated will not be an eligible cost to the project and will be borne and paid by the CITY.

- C. **Time Limit:** This project will commence upon written authorization to proceed from the STATE directed to the CITY.

The approved allocation of funds for projects containing Industrial Access funds shall lapse if a contract has not been awarded for construction of the project within (12) months of the date of the funding approval by the Board and the approved allocation shall be returned to the IARB for re-allocation. A time extension may be approved by the IARB upon formal request by the applicant.

The approved allocation of funds for projects containing Federal Transportation Alternatives Set-Aside funds may lapse if a project has not been authorized by FHWA within (24) months of the date of the funding approval by the Governor and the approved allocation shall be returned to the STATE for re-allocation. A time extension may be approved by the STATE upon formal request by the applicant. Failure to meet other project milestones, as set forth in the TAP Guidelines, may result in an approved allocation being returned to the STATE.

**PART THREE (3): PROJECT SERVICES**

- A. The STATE will furnish all Right-of-Way for the project. Associated Right-of-Way acquisition costs will not be an eligible cost as part of this Agreement. The Right-of-Way acquisition phase is hereby defined as the appraisal fees, appraisal review fees and the cost of acquisition incurred.

All work accomplished under the provisions of this agreement will be accomplished on property owned by or which will be acquired by the STATE in accordance with applicable Federal and state laws, regulations, and procedures. In cases where property is leased or easements obtained, the terms of the lease or easement will not be less than the expected life of the improvements.

Acquisition of real property by the STATE as a part of this project will conform to and be in accordance with the provisions of the Federal Uniform Relocation Assistance & Real Property Acquisition Policies Act (49 CFR 24, Subpart B), all federal environmental laws, and all other applicable state and federal laws.

Any property acquired shall be in the name of the STATE with any condemnation or other legal proceedings being performed by the STATE.

The STATE shall follow all Federal regulations related to the Management, Leasing, and Disposal of Right-of-Way, uneconomic remnants and excess Right-of-Way as found in CFR 23 § 710 Subpart D. Proceeds for Leases and Disposals shall be credited to the Project or to the Title 23 Collector Account.

No change in use or ownership of real property acquired or improved with funds provided under the terms of this Agreement will be permitted without prior written approval from the STATE or FHWA. The STATE or FHWA will be credited on a prorata share, as provided in Part Two, Section B, any revenues received by the CITY from the sale or lease of property.

- B. The CITY will relocate any utilities in conflict with the project improvements in accordance with applicable Federal and State laws, regulations, and procedures with a consultant approved by the STATE. Associated Utility costs will be an eligible cost as part of this Agreement.
- C. The CITY will make the Survey, perform the Design, complete the Plans and furnish all Preliminary Engineering for the project with CITY forces or with a consultant approved by the STATE. Associated Survey, Design, Plan Preparation, and Preliminary Engineering costs will not be an eligible cost as part of this Agreement.

If any Associated Survey, Design, Plan Preparation, and Preliminary Engineering costs are an eligible cost to the project, the CITY will develop and submit to the STATE a project budget for approval. This budget will be in such form and detail as may be required by the STATE. At a minimum, all major work activities will be described, and an estimated cost and source of funds will be indicated for each activity. A signature line will be provided for approval by the Region Engineer and date of such approval. All cost for which the CITY seeks reimbursement must be included in a budget approved by the STATE in order to be considered for reimbursement. Budget adjustments may be necessary and may be allowed, subject to the approval of the STATE in writing, in order to successfully carry out the project. However, under no circumstances will the CITY be reimbursed for expenditures over and beyond the amount approved by the STATE.

The CITY will undertake the project in accordance with this Agreement, plans approved by the STATE and the requirements, and provisions, including the documents relating thereto, developed by the CITY and approved by the STATE. The plans, including the documents relating thereto, is of record in the Alabama Department of Transportation and is hereby incorporated in and made a part of this Agreement by reference. It is understood by the CITY that failure of the CITY to carry out the project in accordance with this Agreement and approved plans, including documents related thereto, may result in the loss of federal funding and the refund of any federal funds previously received on the project.

Projects containing Industrial Access funds or State funds, with no Federal funds involved, shall have completed original plans furnished to the STATE in accordance with the Guidelines for Operations for *Procedures for Processing State and Industrial Access Funded County and City Projects*, and attached hereto as a part of this Agreement prior to the CITY letting the contract.

- D. The CITY will furnish all construction engineering for the project with CITY forces or with a consultant approved by the STATE as part of the cost of the project. Construction Engineering & Inspection cost are not to exceed 15%, without prior approval by the State. Associated Construction Engineering & Inspection costs will be an eligible cost as part of this Agreement.
- E. The STATE will furnish the necessary inspection and testing of materials when needed as part of the cost of the project. The CITY may request the use of an approved third-party materials inspection and testing provider, as approved by the STATE.

#### PART FOUR (4): CONTRACT PROVISIONS

- A. The CITY shall not proceed with any project work covered under the provisions of this Agreement until the STATE issues written authorization to the CITY to proceed.
- B. Associated Construction cost will be an eligible cost as part of this Agreement.

For projects let to contract by the STATE, the STATE will be responsible for advertisement and receipt of bids, and the award of the Contract. Following the receipt of bids and prior to the award of the Contract, the STATE will invoice the CITY for its pro rata share of the estimated cost as reflected by the bid of the successful bidder plus Engineering & Inspection and Indirect Costs (if applicable). The CITY shall pay this amount to the STATE no later than 30 days after the date bids are opened. Failure to do so may lead to the rejection of the bid.

For projects let to contract by the CITY, the CITY shall comply with all Federal and State laws, rules, regulations and procedures applicable to the advertisement, receipt of bids, and the award of the contract. The CITY will, when authorized by the STATE, solicit bids and make awards for construction and/or services pursuant to this agreement. The CITY shall not solicit bids until the entire bid package (plans, specifications, estimates, etc.) has been reviewed and approved by the STATE. Following receipt of bids, the CITY will provide all bids to the STATE with a recommendation for award. The CITY shall not award the contract until it has received written approval from the STATE.

For projects with approval by the STATE to use CITY Forces, the Construction for the project will be performed by the CITY at actual costs for labor, materials, and equipment, as approved by the STATE.

The purchase of project equipment and/or services financed in whole or in part pursuant to this Agreement will be in accordance with applicable Federal and State laws, rules, regulations, and procedures, including state competitive bidding requirements applicable to counties and municipalities in the State of Alabama when the purchase is made by any such entity.

- C. If necessary, the CITY will file an Alabama Department of Environmental Management (ADEM) National Pollutant Discharge Elimination System (NPDES) Notice of Registration (NOR) (Code Chapter 335-6-12) for this project without cost to the State or this project. The CITY will be the permittee of record with ADEM for the permit. The CITY and the contractor will be responsible for compliance with the permit and the State will have no obligation regarding the permit. The CITY will furnish the State (Region) a copy of the permit prior to any work being performed by the contractor.

The CITY will secure all permits and licenses of every nature and description applicable to the project in any manner and will conform to and comply with the requirements of any such permit or license, and with each and every requirement of any and all agencies, and of any and all lawful authorities having jurisdiction or requirements applicable to the project or to the project activities.

- D. The CITY will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, Latest Edition, on this project and will ensure that work associated on this project meets the standards of the Alabama Department of Transportation and the project will be built in accordance with the approved plans.
- E. Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), the CITY shall indemnify, and hold harmless the State of Alabama, the Alabama Department of Transportation, its officers, officials, agents, servants, and employees from and against (1) claims, damages, losses, and expenses, including but not limited to attorneys' fees arising out of, connected with, resulting from or related to the work performed by the CITY, or its officers, employees, contracts, agents or assigns (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the CITY pursuant to the terms of this Agreement, or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but

not limited to attorneys' fees , caused by the negligent, careless or unskillful acts of the CITY its agents, servants, representatives or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the CITY, its agents, servants, representatives or employees, or anyone for whose acts the CITY may be liable.

- F. The CITY will be obligated for the payment of damages occasioned to private property, public utilities or the general public, caused by the legal liability (in accordance with Alabama and/or Federal law) of the CITY, its agents, servants, employees or facilities.
- G. Upon completion and acceptance of this project by the State, the CITY will assume full ownership and responsibility for the project work on CITY right-of-way and the STATE will assume full ownership and responsibility for the project work on STATE right-of-way and maintain the project in accordance with applicable State law.

#### **PART FIVE (5): ACCOUNTING PROVISIONS**

- A. The CITY will, when appropriate, submit reimbursement invoices to the STATE for work performed in carrying out the terms of this Agreement. Requests for reimbursement will be made on forms provided by the STATE and will be submitted through the Region Engineer for payment. The CITY may invoice the STATE not more often than once per month for the funds due for work performed under this Agreement. Invoices for payment will be submitted in accordance with state law and will indicate that the payment is due, true, correct, unpaid, and the invoice will be notarized. Invoices for any work performed under the terms of this agreement will be submitted within twelve (12) months after the completion and acceptance by the STATE for the work. Any invoices submitted after this twelve-month period will not be eligible for payment.
- B. The CITY will not assign any portion of the work to be performed under this Agreement or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement, without the prior written approval of the STATE.
- C. The CITY will establish and maintain a cost accounting system that must be adequate and acceptable to the STATE as determined by the auditor of the STATE.

All charges to the Project will be supported by properly executed invoices, contracts, or vouchers, as applicable, evidencing in proper detail the nature and propriety of the charges, in accordance with the requirements of the STATE. All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the project will be clearly identified, readily accessible and to the maximum extent feasible, kept separate and apart from all other such documents.

The CITY will report to the STATE the progress of the project in such manner as the STATE may require. The CITY will also provide the STATE any information requested by the STATE regarding the project. The CITY will submit to the STATE financial statements, data, records, contracts and other documents and items of any respect related to the project as may be requested by the STATE.

The CITY will permit the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, to inspect, at any time, vehicles and equipment utilized or used in performance of the project; any and all data and records which in any way relate to the project or to the accomplishment of the project. The CITY will also permit the above noted persons to audit the books, records and accounts pertaining to the project at any and all times, and the CITY will give its full cooperation to those persons or their authorized representatives, as applicable.

The CITY will comply with all audit requirements set forth in the 2 CFR Part 200 requirements, or the most current version of those requirements under federal law.

- D. The CITY will retain all books, records, and other documents relative to this Agreement for a minimum of three (3) years after project termination, expiration of Federal interest,

or close out, and the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, will have full access to, and right to examine any of said materials at all reasonable times during said period.

- E. Any user fee or charge to the public for access to any property or services provided through the funds made available under this agreement, if not prohibited by a Federal, State or local law, must be applied for the maintenance and long-term upkeep of the project authorized by this agreement.
- F. An audit report must be filed with the Department of Examiners of Public Accounts, upon receipt by the CITY, for any audit performed on this project in accordance with Act No. 94-414.

#### **PART SIX (6): MISCELLANEOUS PROVISIONS**

- A. By entering into this agreement, the CITY is not an agent of the STATE, its officers, employees, agents or assigns. The CITY is an independent entity from the STATE and nothing in this agreement creates an agency relationship between the parties.
- B. It is agreed that the terms and commitments contained in this agreement shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment 26. It is further agreed that if any provision of this agreement shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this agreement, be enacted, then the conflicting provision in this agreement shall be deemed null and void.
- C. 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.
- D. No member, officer, or employee of the CITY during their tenure of employment, and for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds, profits, or benefits therefrom.
- E. The terms of this Agreement may be modified by revision of this Agreement duly executed by the parties hereto.
- F. This agreement may be terminated by either party upon the delivery of a thirty (30) day notice of termination.
- G. Nothing shall be construed under the terms of this Agreement that shall cause any conflict with Section 23-1-63, Code of Alabama, 1975.
- H. **Exhibits A, E, H, M, and N** are hereby attached to and made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by those officers, officials and persons duly authorized to execute same, and the Agreement is deemed to be dated and to be effective on the date hereinafter stated as the date of its approval by the Governor of Alabama.

ATTEST:

City of Alabaster, Alabama

By: \_\_\_\_\_  
City Clerk (Signature)

By: \_\_\_\_\_  
As Mayor (Signature)

\_\_\_\_\_  
Type Name of Clerk  
(AFFIX SEAL)

\_\_\_\_\_  
Type Name of Mayor

This agreement has been legally reviewed and approved as to form and content.

By: \_\_\_\_\_  
William F. Patty,  
Chief Counsel

RECOMMENDED FOR APPROVAL:

\_\_\_\_\_  
DeJarvis Leonard, P.E.  
East Central Region Engineer

\_\_\_\_\_  
Bradley B. Lindsey, P.E.  
State Local Transportation Engineer

\_\_\_\_\_  
Edward N. Austin, P. E.  
Chief Engineer

STATE OF ALABAMA, ACTING BY AND THROUGH  
THE ALABAMA DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
John R. Cooper, Transportation Director

THE WITHIN AND FOREGOING AGREEMENT IS HEREBY EXECUTED AND  
SIGNED BY THE GOVERNOR ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
KAY IVEY  
GOVERNOR, STATE OF ALABAMA



RESOLUTION NUMBER \_\_\_\_\_

BE IT RESOLVED, by the City of Alabaster as follows:

That the City enter into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation relating to a project for:

**Additional lanes on SR-119 from Silver Creek Parkway to CR-12 including a multi-use path from Veterans Park to CR-26 – Phase II; Project# STPBH-0119( ); CPMS Ref# 100076801 and 100076800.**

Which agreement is before this Council, and that the agreement be executed in the name of the City, by the Mayor for and on its behalf and that it be attested by the City Clerk and the official seal of the City be affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the agreement by all parties, that a copy of such agreement be kept on file by the City.

I, the undersigned qualified and acting Clerk of the City of Alabaster, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City named therein, at a regular meeting of such Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and that such resolution is on file in the City Clerk’s Office.

ATTESTED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and that such resolution is of record in the Minute Book of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

(AFFIX SEAL)

**STD CONTRACT EXHIBITS**

REV. 9/19/16

## EXHIBIT A

**PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN FEDERAL-AID PROGRAM**

Policy. It is the policy of the U.S. Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this AGREEMENT. Consequently, the DBE requirements of 49 CFR Part 26 apply to this AGREEMENT.

DBE Obligation. The recipient of funds under the terms of this AGREEMENT agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. The recipient shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to see that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts and shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of U.S. Department of Transportation assisted contracts.

Failure of the recipient of funds under the terms of this AGREEMENT, or failure of its subcontractor (if a subcontractor is authorized) to carry out the DBE requirements of this AGREEMENT shall constitute a breach of contract, and may result in termination of the contract by the STATE, or such other remedy may be undertaken by the STATE as it deems appropriate.

**STD CONTRACT EXHIBITS**  
**REV. 9/19/16**

EXHIBIT E

**TERMINATION OR ABANDONMENT**

- a. The STATE has the right to abandon the work or to amend its project at any time, and such action on its part shall in no event be deemed a breach of contract.
  
- b. The STATE has the right to terminate this AGREEMENT at its sole discretion without cause and make settlement with the CITY upon an equitable basis. The value of the work performed by the CITY prior to the termination of this AGREEMENT shall be determined. In determining the value of the work performed, the STATE shall consider the following:
  1. The ratio of the amount of work performed by the CITY prior to the termination of the AGREEMENT to the total amount of work contemplated by this AGREEMENT less any payments previously made.
  
  2. The amount of the expense to which the CITY is put in performing the work to be terminated in proportion to the amount of expense to which the CITY would have been put had he been allowed to complete the total work contemplated by the AGREEMENT, less any payments previously made. In determining the value of the work performed by the CITY prior to the termination, no consideration will be given to profit, which the CITY might have made on the uncompleted portion of the work. If the termination is brought about as a result of unsatisfactory performance on the part of the CITY, the value of the work performed by the CITY prior to termination shall be fixed solely on the ratio of the amount of such work to the total amount of work contemplated by this AGREEMENT.

**CONTROVERSY**

In any controversy concerning contract terms, or on a question of fact in connection with the work covered by this project, including compensation for such work, the decision of the Transportation Director regarding the matter in issue or dispute shall be final and conclusive of all parties.

**CONTRACT BINDING ON SUCCESSORS AND ASSIGNS**

- a. This contract shall be binding upon the successors and assigns of the respective parties hereto.
  
- b. Should the AGREEMENT be terminated due to default by CITY, such termination shall be in accordance with applicable Federal Acquisition Regulations.

## STD CONTRACT EXHIBITS

REV. 9/19/16

## EXHIBIT H

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**EQUAL RIGHTS PROVISIONS**

During the performance of this contract, the CITY for itself, its assignees and successors in interest agrees as follows:

a. **Compliance with Regulations**

The CITY will comply with the Regulations of the Department of Transportation relative to nondiscrimination in federally-assigned programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, as amended by 23 CFR 710-405(b), hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;

**STD CONTRACT EXHIBITS**  
**REV. 9/19/16**

EXHIBIT H

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- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

b. **Nondiscrimination**

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CITY agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. The CITY will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices where the contract covers a program set forth in Appendix B of the Regulations.

The CITY will comply with all provisions of Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.

c. **Solicitations**

In all solicitations either by competitive bidding or negotiation made by the CITY for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor, supplier or lessor shall be notified by the CITY of the CITY'S obligation under this contract and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex or national origin.

d. **Information and Reports**

The CITY will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books,

**STD CONTRACT EXHIBITS**  
**REV. 9/19/16**

EXHIBIT H

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records, accounts, other sources of information and its facilities as may be determined by the STATE or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CITY is in the exclusive possession of another who fails or refuses to furnish this information, the CITY shall so certify to the STATE, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. **Sanctions for Noncompliance**

In the event of the CITY'S noncompliance with the nondiscrimination provisions provided for herein, the STATE shall impose such contract sanctions as it may determine to be appropriate, including but not limited to,

1. withholding of payments to the CITY under contract until the CITY complies, and/or
2. cancellation, termination or suspension of the contract, in whole or in part.

f. **Incorporation of Provisions**

The CITY will include the foregoing provisions a. through f. in every subcontract, including procurements of materials and leases of equipment, unless excepted by the Regulations, orders or instructions issued pursuant thereto. The CITY will take such action with respect to any subcontract, procurement, or lease as the STATE may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a CITY becomes involved in, or is threatened with, litigation with subcontractors, suppliers, or lessor as a result of such direction, the CITY may request the STATE to enter into such litigation to protect the interest of the STATE.

g. **Equal Employment Opportunity** – The following equal employment opportunity requirements apply to the underlying contract:

1. **Race, Color, Creed, National Origin, Sex** – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal Transit laws at 49 U.S.C. § 5332, the CITY agrees to comply with all applicable equal employment requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project.

**STD CONTRACT EXHIBITS**  
**REV. 9/19/16**

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The CITY agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CITY agrees to comply with any implementing requirements FTA may issue.

2. Age – In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the CITY agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CITY agrees to comply with any implementing requirements FTA may issue.
  
3. Disabilities – In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CITY agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**COST PRINCIPLES**

The STATE'S cost principles for use in determining the allowability of any item of cost, both direct and indirect, in this AGREEMENT, shall be the applicable provisions of Volume I, Federal Acquisition Regulations, Parts 30 and 31. The CITY shall maintain costs and supporting documentation in accordance with the Federal Acquisition Regulations, Parts 30 and 31 and other Regulations referenced with these Parts where applicable. The CITY shall gain an understanding of these documents and regulations. The applicable provisions of the above referenced regulations documents are hereby incorporated by reference herein as if fully set forth.

**EXECUTORY CLAUSE AND NON-MERIT SYSTEM STATUS**

- a. The CITY specifically agrees that this AGREEMENT shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the STATE beyond the moneys available for this purpose.

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- b. The CITY, in accordance with the status of CITY as an independent contractor, covenants and agrees that the conduct of CITY will be consistent with such status, that CITY will neither hold CITY out as, or claim to be, an officer or employee of the STATE by reason hereof, and that CITY will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the STATE under the merit system or any other law of Alabama, including but not limited to workmen's compensation coverage, or retirement membership or credit or any Federal employment law. This paragraph also applies in like manner to the employees of CITY.

**CITYS' CERTIFICATIONS**

The CITY by acceptance of this contract certifies that the rates or composition of cost noted in Article IV - PAYMENTS are based on the current actual hourly rates paid to employees, estimated non- salary direct cost based on historical prices, the latest available audited indirect cost rate, and estimated cost of reimbursements to employees for travel (mileage, per diem, and meal allowance) based on the current policy of the CITY. The CITY agrees that mileage reimbursements for use of company vehicles is based on the lesser of the approved rate allowed by the General Services Administration of the United States Government or the reimbursement policies of the CITY at the time of execution of the AGREEMENT. The CITY agrees that no mileage reimbursement will be allowed for the purpose of commuting to and from work or for personal use of a vehicle. The CITY agrees that the per diem rate will be limited to the rate allowed by the STATE at the time of execution of the AGREEMENT. The CITY agrees that a meal allowance shall be limited to CITY employees while in travel status only and only when used in lieu of a per diem rate.

The CITY shall submit detailed certified labor rates as requested, and in a timely manner, to the External Audits Section of the Finance and Audits Bureau of The Alabama Department of Transportation. The CITY agrees that material differences between rates submitted with a proposal and rates provided as certified for the same proposal are subject to adjustment and reimbursement.



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**CERTIFICATION FOR FEDERAL-AID CONTRACTS: LOBBYING**

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative AGREEMENT, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the prospective participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement or other instrument as might be applicable under Section 1352, Title 31, U.S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

STD CONTRACT EXHIBITS  
REV. 9/19/16

EXHIBIT N

**FUNDS SHALL NOT BE CONSTITUTED AS A DEBT**

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this AGREEMENT shall contravene any statute or Constitutional provision of amendment, either now in effect or which may, during the course of this AGREEMENT, be enacted, then the conflicting provision in the AGREEMENT shall be deemed null and void.

When considering settlement of controversies arising from or related to the work covered by this AGREEMENT, the parties may agree to use appropriate forms of non-binding alternative dispute resolution.

**TERMINATION DUE TO INSUFFICIENT FUNDS**

- a. If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.
- b. In the event of proration of the fund from which payment under this AGREEMENT is to be made, agreement will be subject to termination.

**NO GOVERNMENT OBLIGATION TO THIRD PARTY CONTRACTORS**

The STATE and CITY acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations of or liabilities to the STATE, CITY, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The CITY agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided to FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**STATE OF ALABAMA  
DEPARTMENT OF TRANSPORTATION  
GUIDELINES FOR OPERATION**

**SUBJECT: PROCEDURES FOR PROCESSING STATE AND INDUSTRIAL  
ACCESS FUNDED COUNTY AND CITY PROJECTS**

No work can be performed and no contracts can be let prior to having a fully executed project agreement, submittal of project plans to Region and notification from the Region that advertisement for bids can be made, or, in the case of force account projects, work can begin.

A project agreement will be prepared and furnished to the County/City upon receipt of grant award letter signed by the Director or Governor. The Region will prepare and submit a F-7A Budget Allotment request upon receipt of a project funding agreement at the time it is submitted to the County/City for their execution.

The County/City will submit plans prepared and signed by a registered professional engineer showing work to be performed. Plans must match the project agreement description. It is not necessary for the Region to perform an in-depth review of plans. The County/City will submit a certification signed by a Registered Professional Engineer stating that the plans have been prepared so that all items included in the plans meet ALDOT specifications. The County/City will include a letter certifying that the County/City owns all right-of-way on which the project is to be constructed.

Upon receipt of the executed agreement, the executed F-7A, final plans from the County/City, and right-of-way certification, the Region may notify the County/City to proceed with advertising the project for letting or proceed with work in the case of a force account project.

In the case where a County/City is using an in-place annual bid, the County/City will furnish the Region a copy of their bid and this bid price will be used for reimbursement.

Where the County/City is letting a contract locally, the County/City will furnish to the Region the three lowest bids with their recommendation for award. The Region will review the bids, and, if in order, advise the County/City to proceed with award of the contract to the lowest responsible bidder. The County's/City's estimate for reimbursement will be based on the bid prices concurred in by the State and supported with documentation that the contractor has been paid for work performed (copy of cancelled check).


A certification will be submitted with County/City final estimate stating that the project was constructed in accordance with final plans submitted to the State and with the specifications, supplemental specifications, and special provisions which were shown on the plans or with the State's latest specifications which were applicable at the time of plan approval.

The County/City will notify the Region when the project is complete and the Region will perform a final ride-through to determine whether the project was completed in substantial compliance with original final plans. Final acceptance will be made by the Region with a copy of the letter furnished to the Bureau of Local Transportation.

All required test reports, weight tickets, material receipts and other project documentation required by the specifications, applicable supplemental specifications, and special provisions will be retained by the County/City for a period of three (3) years following receipt of final payment and made available for audit by the State upon request. If an audit is performed and proper documentation is not available to verify quantities and compliance with specifications, the County/City will refund the project cost to the State or do whatever is necessary to correct the project at their cost.

All County/City Industrial Access or State funded projects let to contract by the State will follow normal project procedures and comply with all current plan processing requirements.

RECOMMENDED FOR APPROVAL:

  
BUREAU CHIEF/REGION ENGINEER

APPROVAL:   
CHIEF ENGINEER

APPROVAL:   
TRANSPORTATION DIRECTOR

NOVEMBER 1, 2017  
DATE

A public hearing having previously been set by Council on **September 11, 2023**, Council Member \_\_\_\_\_ introduced the following Resolution, which was seconded by Council Member \_\_\_\_\_.



**RESOLUTION 102323**

**A RESOLUTION AFFIRMING RECOMMENDATION FROM THE ALABASTER FIRE MARSHAL TO ABATE WEEDS ON ONE PROPERTY**

**WHEREAS**, the Mayor and City Council wish to provide for the general welfare of City residents pursuant to provisions of Ordinance 20-100, and

**WHEREAS**, it is the desire of the Mayor and City Council of the City of Alabaster to provide the citizens with the most efficient and effective means of completing the requirements of Sections 18-88 through 18-96 of the Alabaster Code of Ordinances as Amended by Ordinance No. 20-100, and

**WHEREAS**, after careful consideration, the Alabaster Fire Marshal recommends a declaration that the weeds located at the following property constitutes a nuisance and should be abated in accordance with the City’s Ordinance and State Law:

	<b>Owner</b>	<b>Property Address</b>	<b>Parcel Identification No</b>
1	<b>Elizabeth R &amp; James G &amp; Hanna B Zanthos 637 Carpenter Way Auburn AL 36830</b>	<b>205 Meadowlark Dr Alabaster, AL 35007</b>	<b>23 5 22 0 001 045.000</b>

**WHEREAS**, the Fire Marshal does affirm the property owner(s) were provided notices as required by law, and

**WHEREAS**, this date, the next regular council meeting of the City of Alabaster after report to the City Council of the condition of such property, is set to declare whether the weeds constitute a nuisance and to set a subsequent hearing as to whether the City should abate the nuisance if such was not done within thirty (30) days of said Council resolution.

**WHEREAS**, after careful consideration of the information provided by the Alabaster Fire Marshal and the public comments, if any, the weeds are deemed a nuisance and in need of abatement.

**NOW THEREFORE, BE IT RESOLVED, AS FOLLOWS:**

1. The weeds located at **205 Meadowlark Drive** Alabaster, Alabama are hereby found to be a public nuisance and is ordered to be abated.
2. The Fire Marshall is hereby ordered to place signage at the property that a public hearing on Abatement will be had at the **October 23rd ,2023**, Regular Council Meeting of the City of Alabaster, Alabama, 1953 Municipal Way, Alabaster, provide notice to the owner(s) of the property, and publish notices of the hearing in the Shelby County Reporter as required by law.

3. The City Council also authorizes Mayor Scott Brakefield to execute all documentation necessary to complete this transaction and City Clerk, Mark Frey, to attest and file required documentation.

**ADOPTED AND APPROVED THIS 23<sup>rd</sup> DAY OF OCTOBER 2023.**

ATTEST: CITY OF ALABASTER

\_\_\_\_\_  
J. Mark Frey, City Clerk

\_\_\_\_\_  
Sophie Martin, Council President

APPROVED:

\_\_\_\_\_  
Scott Brakefield, Mayor



# STAFF REPORT

City of Alabaster  
1953 Municipal Way  
Alabaster, AL 35007

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**Submitted By: Thomas Lamb**

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**Council Meeting Date: September 11<sup>th</sup> 2023**

**Agenda Item Description: Weed abatement recommendation and resolution**

**Agenda Item Requestor: Thomas Lamb**

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**Summary/Background: Weed abatement resolution and recommendation for :**

**205 Meadowlark Dr**

**220 Jasmine Dr. was previously on the list, however - 220 Jasmine has been cut as of 0900 on 9/11/2023 and It can be removed from the council agenda on 9/11/2023.**

**Financial Impact:**

**Recommended Council Actions:**

**Attachments:**

**Next Steps/Schedule:**





Timothy J. Love  
Fire Chief

Thomas J. Lamb  
Fire Marshal



Scott Brakefield  
Mayor

Brian Binzer  
City Administrator

Fire Department  
Public Safety Division

President Martin,

On September 5<sup>th</sup>, 2023 Code Enforcement determined the property located at 205 Meadowlark Dr, PIN 23 5 22 0 001 045.000 to be in violation of the City's weed ordinance. According to tax records the property is owned by Elizabeth R, James G and Hanna B Zanthos at 637 Carpenter Way Auburn, AL 36830.

Code Enforcement has given a ten-day courtesy notice to the owner and/or responsible person and, as of this date, the nuisance has not been abated.

The Fire Marshal hereby requests that the City Council, as the governing body of the City, (1) declare the weeds a nuisance, (2) set a meeting, no less than 45 days from today's date to hear evidence and determine whether the violations shall be abated by the City, (3) give notice of the hearing to the owner/responsible person by certified mail, return receipt requested, mailed no less than 30 days prior to the date of the hearing, (4) give notice of the hearing by publication in the Shelby County Reporter published once a week for two consecutive weeks. The first notice shall be published at least 14 days prior to the date of the scheduled hearing.

Done this the 5th day of September, 2023.

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Thomas J. Lamb, Fire Marshal

*Smoke Alarms Save Lives!*

1953 Municipal Way, Suite 102 • Alabaster • Alabama 35007  
Phone 205-664-6823 • Fax 205-664-6841 • tlamb@alabasterfire.org