



**CITY OF OPELIKA
CITY COUNCIL
WORKSESSION MEETING AGENDA
300 Martin Luther King Blvd.
March 19, 2024
TIME: 5:45 PM**

1. A CALL TO ORDER
 1. George Allen, Erica Norris, Tim Aja, Todd Rauch, Eddie Smith
2. PRESENTATIONS
3. RESOLUTIONS
 1. Approve Grant Funding Agreement with ALDOT for Intersection Improvements at Gateway Drive and Frederick Road - ENG.
 2. Approve Professional Services Agreement with Sain Associates, Inc. for Intersection Improvement Projects - ENG.
 3. (Bid) - Printer Maintenance - IT.
4. ORDINANCES
5. GENERAL UPDATES
6. REVIEW/DISCUSS CURRENT COUNCIL MEETING AGENDA
7. GENERAL / DISCUSSION
8. END OF WORK SESSION

“In compliance with the Americans with Disabilities Act, the City of Opelika will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the ADA Coordinator 72 hours prior to the meeting at (334)705-5130.”

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING PRELIMINARY ENGINEERING
AND CONSTRUCTION AGREEMENT FOR ALABAMA
TRANSPORTATION REHABILITATION PROJECT BETWEEN
THE STATE OF ALABAMA AND THE CITY OF OPELIKA**

WHEREAS, the City of Opelika (the “City”) applied to the Alabama Department of Transportation (“ALDOT”) for ATRIP-II funding for roadway improvements at the intersection of U.S. Highway 280 (Gateway Drive) and Frederick Road; and

WHEREAS, the City’s ATRIP-II grant funding has been approved by ALDOT; and

WHEREAS, the State of Alabama (the “State”), acting by and through ALDOT, and the City desire to cooperate in the intersection improvements at U.S. Highway 280 (Gateway Drive) and Frederick Road, including left turn lanes on U.S. Highway 280 (Gateway Drive) and signal modifications; and

WHEREAS, a proposed Preliminary Engineering and Construction Agreement for Alabama Transportation Rehabilitation and Improvement Project (the “Agreement”) has been prepared by ALDOT and submitted to the City Council for approval, and the City Council has determined that it is now in the best interest of the City and its citizens to approve said Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama, as follows:

1. That the proposed Agreement between the State, acting through ALDOT, and the City, a copy of which is attached hereto and marked as Exhibit “A”, is hereby approved, authorized, ratified and confirmed in the form substantially submitted to the City Council.
2. That the Mayor and the City Clerk are hereby authorized to execute, attest and deliver said Agreement on behalf of the City and such other ancillary documents and certificate

as may be necessary to carry into effect the purpose and intent of said Agreement and carry out fully the transaction contemplated therein on behalf of the City.

3. That the officers of the City and any person or persons designated and authorized by any officers of the City to act in the name and on behalf of the City, or any one or more of them, are authorized to do or cause to be done or performed in the name and on behalf of the City such other acts and to execute and deliver or cause to be executed and delivered in the name and on behalf of the City such other notices, certificates, assurances or other instruments or other communications under the seal of the City or otherwise, as they or any of them deem necessary or advisable or appropriate in order to carry into effect the intent of the provisions of this Resolution.

4. That the City certifies that it will comply with all state of Alabama grant conditions and regulations relative to the Agreement.

5. That this Resolution shall take effect upon its passage and adoption by the City Council.

6. That upon completion of the execution of the Agreement by all parties, a copy of such Agreement will be kept on file by the City.

ADOPTED AND APPROVED this the ____ day of _____, 2024.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

CERTIFICATE

I, the undersigned qualified and acting Clerk of the City of Opelika, 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 _____, 2024, and that such resolution is on file in the City Clerk's office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this the ____ day of _____, 2024.

CITY CLERK

(AFFIX SEAL)

**PRELIMINARY ENGINEERING
AND
CONSTRUCTION
AGREEMENT
FOR A
ALABAMA TRANSPORTATION REHABILITATION
AND IMPROVEMENT PROGRAM II
PROJECT**

**BETWEEN THE STATE OF ALABAMA
AND THE
CITY OF OPELIKA
Lee County**

**Project No. ATRP2-41-2024-384
CPMS Ref# 100078186 & 100078572**

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 Opelika, Alabama, hereinafter referred to as the CITY.

WHEREAS, the STATE and the CITY desire to cooperate in the intersection improvements at US-280 and Frederick Rd., including left turn lanes on US-280 and signal modifications; Project# ATRP2-41-2024-384; CPMS Ref# 100078186 and 100078572.

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 State funds in excess of the State's share of the cost hereinafter set forth. Alabama Transportation Rehabilitation and Improvement Program II (ATRIP II) Funds shall be limited to \$2,000,000.00 for this project. Any deficiency in ATRIP II funds or overrun in project costs will be borne by the CITY from CITY funds. In the event of an underrun in project costs, the ATRIP II funds will not exceed total project costs.

- B. The estimated cost and participation by the various parties is as follows:

<u>PRELIMINARY ENGINEERING</u>	ESTIMATED COST
ATRIP II Funds (PE Review)	<u>\$ 20,000.00</u>
 <u>CONSTRUCTION</u>	
ATRIP II Funds	<u>\$1,980,000.00</u>
 <u>TOTAL (Incl. E&I)</u>	<u>\$2,000,000.00</u>

- 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 Alabama Transportation Rehabilitation and Improvement Program funds may lapse if a project has not been authorized 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 ATRIP II Guidelines, may result in an approved allocation being returned to the STATE.

PART THREE (3): PROJECT SERVICES

- A. The Right-of-Way acquisition phase is hereby defined as the appraisal fees, appraisal review fees and the cost of acquisition incurred.

The CITY will furnish all Right-of-Way for the project on CITY Right-of-Way and the STATE will furnish all Right-of-Way for the project on STATE Right-of-Way. The Right-of-Way acquisition phase is hereby defined as the appraisal fees, appraisal review fees and the cost of acquisition incurred.

An initial consultation to determine Right-of-Way requirements shall take place between the STATE and CITY prior to authorization of the Construction budget. Any Right-of-Way acquired that will be owned and maintained by the STATE will be acquired by the STATE with associated Right-of-Way acquisition costs as to not be an eligible cost to this Agreement. Any Right-of-Way acquired that will be owned and maintained by the CITY will be acquired by the CITY with associated Right-of-Way costs to not be an eligible cost as part of this Agreement.

Regarding CITY Right-of-Way, work accomplished under the provisions of this agreement will be accomplished on property owned by or which will be acquired by the CITY in accordance with applicable Federal and state laws, regulations, and procedures. Any exceptions to this requirement must be approved by the STATE in writing prior to incurring costs for which reimbursement is requested by the CITY. 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 CITY 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 by the CITY shall be in the name of the CITY with any condemnation or other legal proceedings being performed by the CITY.

The CITY 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. Only charges made by the STATE to review plans prepared for this project will 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 or state funding and the refund of any federal or state funds previously received on the project.

- D. The STATE will furnish all construction engineering for the project with STATE forces or with a consultant as an eligible cost to the project.
- E. The STATE will furnish the necessary inspection and testing of materials when needed as part of the cost of the project.

PART FOUR (4): CONTRACT PROVISIONS

- A. Associated Construction cost will be an eligible cost as part of this Agreement.

The project will be 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.

- B. If necessary, the STATE 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 this project. The STATE will be the permittee of record with ADEM for the permit. The STATE and the contractor will be responsible for compliance with the permit.

If necessary, 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.

- C. The STATE 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.
- D. 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.
- E. The STATE 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 STATE, its agents, servants, employees or facilities.
- F. 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 maintain the project on CITY Right-of-Way in accordance with applicable State law.

PART FIVE (5): ACCOUNTING PROVISIONS

- A. 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.

- B. The STATE 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 STATE will report the progress of the project. The STATE will also provide any information requested regarding the project under the Alabama Open Records Act.

The STATE will permit, 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 STATE 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 STATE will give its full cooperation to those persons or their authorized representatives, as applicable.

The STATE 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.

- C. The STATE 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.
- D. 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.
- E. An audit report must be filed with the Department of Examiners of Public Accounts, upon receipt by the STATE, for any audit performed on this project in accordance with Act No. 94-414 and Act No. 2019-2 (Rebuild Alabama Act).

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 Opelika, Alabama

By: _____

City Clerk (Signature)

By: _____

As Mayor (Signature)

Type Name of Clerk

(AFFIX SEAL)

Type Name of Mayor

This contract has been legally reviewed and approved as to form.

By: _____

Legal Counsel for

Alabama Department of Transportation

RECOMMENDED FOR APPROVAL:

Steven C. Graben, P.E.

Southeast 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 Opelika 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:

Intersection improvements at US-280 and Frederick Rd., including left turn lanes on US-280 and signal modifications; Project# ATRP2-41-2024-384; CPMS Ref# 100078186 and 100078572.

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 Opelika, 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)

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.

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.

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.F.R. parts 37 and 38;

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 nondiscrimination 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,

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.

EXHIBIT H
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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.

EXHIBIT H

Page 5

- 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.

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.

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.



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SAIN
ASSOCIATES



NOT TO SCALE

US-280 at Frederick Rd Intersection Improvements - ATRIP II

US-280 at Frederick Road
Opelika, Alabama

RESOLUTION NO. _____

**RESOLUTION ACCEPTING PROPOSAL AND AUTHORIZING
AWARD OF CONTRACT TO SAIN ASSOCIATES, INC.,
FOR PROFESSIONAL ENGINEERING SERVICES IN CONJUNCTION
WITH INTERSECTION IMPROVEMENTS AT WAVERLY PARKWAY
AND DUNLOP DRIVE, MORRIS AVENUE AND ROCKY BROOK ROAD
AND SOUTH 6TH STREET AND AVENUE A**

WHEREAS, professional engineering services are needed in conjunction with the design of intersection improvements at Waverly Parkway and Dunlop Drive, Morris Avenue and Rocky Brook Road and South 6th Street and Avenue A (the “Project”); and

WHEREAS, Sain Associates, Inc., (“Sain”) is a professional engineering firm that possesses the requisite knowledge, skill and resources to provide planning and engineering services for the Project; and

WHEREAS, the City has received a Proposal for design engineering services from Sain; and

WHEREAS, the estimated compensation due to Sain under the proposal is \$360,150, which shall come from the Roadway Construction Fund; and

WHEREAS, City staff recommends Sain to perform said services; and

WHEREAS, the City Council has reviewed the Proposal submitted by Sain and has determined that it is in the best interest of the City to enter into a contract with Sain.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama (the “City”), as follows:

1. That the Proposal submitted by Sain Associates, Inc., a copy of which is attached hereto as Exhibit “A”, be and the same is hereby approved, authorized, ratified and confirmed in the form substantially submitted to the City Council with such changes thereto (by addition, deletion or substitution) as the Mayor shall approve which approval shall be conclusively

evidenced by execution and delivery of said Proposal.

2. That the Mayor is hereby authorized to execute and deliver or cause to be executed or delivered in the name and on behalf of the City the proposal and such other agreements, contracts, notices, certificates, assurances or other instruments or other communications as he deems necessary or appropriate to carry into effect the intent of the provisions of this Resolution.

3. That the compensation be paid to Sain Associates under and pursuant to the Proposal shall come from the Roadway Construction Fund. The Controller is hereby authorized and directed to make all necessary and appropriate budget adjustments to implement this Resolution.

4. That the Purchasing-Revenue Manager is hereby authorized and directed to issue a purchase order to Sain Associates for the provision of design engineering services as outlined in the Proposal attached hereto.

5. That this Resolution shall take effect upon its passage and adoption by the City Council.

ADOPTED AND APPROVED this the ____ day of _____, 2024.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

February 29, 2024



SAIN
ASSOCIATES

Mr. Scott Parker, P.E.
City of Opelika Engineering Department
700 Fox Trail
Opelika, AL 36801

Two Perimeter Park South
Suite 500 East
Birmingham, Alabama 35243
Telephone: (205) 940-6420
www.sain.com

SUBJECT: Intersection Improvements at Waverly Parkway and Dunlop Drive,
Morris Avenue and Rocky Brook Road, and South 6th Street and Avenue A
City of Opelika
SA Project #23-0375

Dear Scott:

We appreciate the opportunity to submit this proposal for engineering services. Following is a description of our understanding of your project and the scope of services that we propose to undertake.

General Project Understanding

The City has requested that Sain provide engineering services for intersection improvements at the 3 locations listed below. The proposed improvements will be based on preliminary sketches prepared by the City and attached to this proposal. In addition, a summary of the anticipated improvements at each location is given below.

Waverly Parkway at Dunlop Drive

Eastbound and westbound left turn lanes are proposed along Waverly Parkway, requiring pavement widening and the installation of a traffic signal. A multi-use path will be installed along the north side of Waverly Parkway, and sidewalk is proposed on the south side of the road to the east of Dunlop Drive. Closed system drainage improvements will also likely be necessary since the proposed multi-use path will be constructed in the location of an existing ditch. The City's ongoing Federal TAP project (TAPAA-TA22(915)) currently proposes to construct pedestrian improvements within the footprint of this proposed intersection improvement project. In order to avoid any conflict between the projects, the limits of work for the TAP project will be reduced to eliminate any overlap in the projects.

Morris Avenue at Rocky Brook Road

Similar to the first intersection, eastbound and westbound left turn lanes are proposed along Morris Avenue, requiring pavement widening and the installation of a traffic signal. A multi-use path is proposed along the north side of Morris Avenue, and sidewalk is proposed along Rocky Brook Road to the south of the intersection. The intent is to utilize existing pavement width south of the intersection to create a left turn lane without requiring additional widening, but this may result in the elimination of existing bike lanes. Sain will discuss with the City to determine options for connecting cyclists with the proposed multi-use path on the north side of the intersection. Closed drainage improvements will be necessary and some utility relocations will be required. Keeping the proposed improvements within the existing right-of-way will be a challenge, and a retaining walls may be necessary, especially on the northeast corner of the intersection.



South 6th Street at Avenue A and Avenue B

South 6th Street in the vicinity of Avenue A is currently a 4-lane roadway. The proposed improvements will involve installing medians and restriping the existing roadway to create a 3-lane roadway with 2 through lanes and 1 left turn lane. The remaining pavement width will primarily be used for parking. A new signal will be placed at the intersection of South 6th Street and Avenue A, and the existing signal at South 6th Street and Avenue B will be removed.

The following understanding is based on guidance received from the City:

- Topographic and right-of-way survey will be completed for each above intersection. Survey has already been completed surrounding the Waverly Parkway and Dunlop Drive intersections, so only a small amount of supplemental survey will be necessary in that location.
- The City does not anticipate any ALDOT involvement in the project as the intention is to fund the design and construction with City funds.
- The intersection designs will most likely require road widening above existing utilities. Although the City does not require the relocation of utilities located beneath pavement, adjustment and relocation of some utilities may be necessary. Sain will prepare existing utility base sheets to be a part of the final plan assembly and will provide plans to utility owners for a review of potential conflicts. If the City and utility owners determine the relocation of utilities is necessary, Sain will incorporate into the plan set any relocation plans prepared by utility companies for the contractor's reference. Sain's preparation of utility relocation plans is not included in this scope of services.
- For new pavement design, Sain will rely on pavement recommendations provided by the City.
- Sain will review the City's Bicycle and Pedestrian Plan to ensure the proposed improvements align with the City's plan for accommodating bikes and pedestrians.
- The City's intent for the project is to keep all impacts within the existing right-of-way. This will be challenging, particularly at the Morris and Rocky Brook intersection, but Sain will consider the use of retaining walls and other measures to minimize or avoid these impacts. As a result, the preparation of tract sketches and legal descriptions, along with appraisals and acquisition services, are not included in this scope of services.
- Retaining walls may be required to avoid impact to adjacent properties. The plans will depict the plan and profile for the required walls. Standard ALDOT details and specifications will be utilized for the design of the wall. Structural design, geotechnical borings, and aesthetic detailing are not included.
- The need for environmental clearances and/or technical studies is not anticipated and is not included in this scope of services.
- This project will likely require an NPDES permit from ADEM if disturbance exceeds 1 acre. We will coordinate this submittal with the City as the Permittee. ADEM requires the Permittee create an online account, and we will assist you through this process if needed. The permit application fee is not included within this scope and will need to be submitted to ADEM by the City.
- Sain will prepare 3 separate plan sets for the proposed work, but the project will progress as a single project, with concurrent reviews and all 3 plan sets being bid together. If challenges arise



along the way that require the 3 projects progress at different paces with separate meetings, then additional services would be needed to accommodate the extra meetings and plan reviews.

- The City will bid the project; therefore advertising, bidding assistance, and preparation of contract documents are not included in this scope. The City also intends to perform any Construction Engineering and Inspection (CE&I) services that are necessary during construction.
- During the project, if the City requests that Sain perform any of the above items excluded from the current scope, Sain can perform the desired services on an hourly not to exceed basis as described below in the "Owner's Allowance" section of this proposal. If out of scope work would exceed the amount included in this proposal, Sain would be pleased to submit a supplemental agreement for the City's consideration.

Scope of Services

Sain Associates will provide the following scope of services:

Topographic and Right-of-Way Survey

Sain will establish control points using ALDOT VRS CORS Network based on Alabama State Plane Coordinates, NAD83 (East Zone) with elevations based on NAVD88. All work will be based on this control.

Topographic limits are shown on the attached Survey Exhibit A through C. Locations will be gathered 20' beyond the right of way. Contours will be shown at 1-foot intervals with spot elevations shown in the flat areas. Where accessible, visible drainage and sanitary structures will be shown indicating top and invert elevations as well as type and size of pipes. Visible improvements will be shown including buildings, walls, fences, sidewalks, curbs, parking areas, paved areas, and landscaped areas. Please note that in densely wooded areas tree lines will be shown in place of individual trees. Utility locate request will be made to Alabama 811 to have underground utilities within the project corridor identified and marked. Once or if the underground utilities have been marked, we will gather field locations to show the underground utilities on the survey. Please note that utility locators often refuse to mark underground utilities lying outside the limits of public Right-of-Way. In addition, utility locators often refuse to mark underground utilities for surveys. If after six days, the underground utilities have not been marked, an additional locate request will be made. If utilities are not marked after the second locate request is made, we will note the 811 ticket locate number and the unmarked area that the ticket covers.

We will perform the necessary courthouse research and tie sufficient front property corners of properties within the project corridor to graphically plot Right of Way and property. Property ownership as listed in deeds and tax records will be shown for each parcel.

Roadway Contract Plans

Upon completion of the required survey, Sain will prepare conceptual layouts and cost estimates for each proposed intersection improvement. The City's preliminary sketches will be the basis of Sain's conceptual layouts, but the addition of project survey, including utilities, will allow for a more accurate review of the project extents and potential impacts. As described in the Meetings task below, Sain and the City will meet at this point to review and discuss if any adjustments are necessary to the proposed layouts.



Sain will address comments received from the City at the concept review meeting and proceed with preparing 30% design plans. The 30% design will consist of preliminary plans of the intersection improvements, including typical sections, striping, roadway profiles, and cross sections. The 30% design will be sufficient to delineate approximate project limits for review of any potential impacts to adjacent properties, utilities, or adjacent development. The 30% plans will be submitted to the City for review.

Upon approval of 30% plans, Sain will prepare the full plan set for review by the City. The following plan sheets are expected to be included in the overall final plan assembly:

- Title sheet with index
- Legend and abbreviations sheet
- Project notes
- Roadway typical sections
- Quantity summary list
- Geometric control layout
- Plan and profiles
- Retaining wall plan and profile (if required)
- Drainage profiles and details, as necessary
- Paving layout sheets
- Signing and striping plans
- Traffic control notes and details
- Traffic control plans
- Utility sheets
- Erosion control plans
- Cross sections

The following storm design years will be used for analysis of the required drainage system:

- Inlets and closed storm sewer pipe - 10 year
- Crossdrain/culvert - 50 year but not overtop for the 100 year
- Ditches -25 year, unless downstream of crossdrain/culvert, then follows the same design storm as crossdrain/culvert

In addition to the concept and 30% submittals described above, plan submittals and City reviews will occur at 85% and 100% completion. An opinion of probable construction costs will be included with each plan submittal. Plans will be prepared to current ALDOT standards and specifications.

Traffic Signal

Sain will prepare design plans suitable for the construction of three (3) new traffic signal at the subject intersections. This will be in conjunction with the geometric improvements and turn lane lengths recommendations. The design will adhere to ALDOT standard drawings and construction specifications and any City requirements. The following design criteria is proposed:

- Mast arm configuration
- Black LED signal heads



- Flashing yellow arrow for left turn signals
- LED luminaires
- Vehicle Detection
- M-60 controller
- TS-2 cabinet
- Wireless communication equipment
- Connect to City fiber at South 6th Street and Avenue A
- Spare conduit for future connection to City fiber at other sites
- Pedestrian heads and push buttons

Suggested signal timings will be included on the plans. However, performing installation and fine tuning of the signal timings is typically a requirement of the signal contractor. Sain Associates and the City can coordinate prior to construction on the preferred approach for installation of the signal timings. One alternative may be that Sain Associates installs the timings as a task on our on-call agreement currently in place with the City.

Utility Coordination

As described above, the intersection design will most likely require road widening above existing utilities, along with requiring adjustment and relocation to existing utilities. Existing utility poles and aerial lines may require relocation and height adjustment, and relocation of meters, valves, and manholes may also be required. Once Sain has prepared preliminary design plans for the intersection, we will provide plans to utility owners for a review of potential conflicts. Sain will coordinate with the City and utility owners to determine if the relocation of utilities is necessary, and Sain will incorporate into the plan set any relocation plans prepared by utility companies for the contractor's reference.

Meetings and Project Management

Sain has budgeted for the following face-to-face meetings, at which all 3 intersections will be discussed and reviewed concurrently:

- Concept review meeting
- 85% review meeting

Sain will provide email updates to the City monthly throughout the course of the project. Invoices will also be submitted monthly, along with a progress report.

Exclusions

The following services are excluded from this proposal but can be provided if deemed necessary and requested by you: environmental technical studies or environmental document; setting missing or calculated property corners; title reviews or research; setting metal caps for control; staking or setting centerline points and required right-of-way or easements; utilizing ALDOT procedures from the ALDOT survey manual to set the horizontal and vertical control; ALTA or Boundary survey; the cost of filing fees for permits and approvals; public meetings or hearings; geotechnical studies; preparation of tract sketches and legal descriptions; appraisals and acquisition services; ALDOT permitting, meetings, and/or



coordination; design of utility relocations; design of non-standard retaining walls; traffic impact studies; traffic count data collection and analysis; traffic signal warrant evaluation; landscaping design; advertising; bidding; contract documents; construction assistance, observations or CE&I (inspections); or other scope not specifically included. Although not anticipated at this time, any work listed above that may arise will not begin until we have received written authorization from you to proceed with the additional services.

Owner's Allowance

The excluded services listed above are not anticipated. However, if any of these services become necessary, Sain can perform them for an hourly not to exceed amount under the "Owner's Allowance" task below. Any changes in scope or charges against the "Owner's Allowance" will be approved in writing by the City prior to performing. If no changes in scope occur, the "Owner's Allowance" will not be charged.

Fees

We propose to provide the above described services based on the following fee schedule:

Topographic and Right-of-Way Survey	Lump Sum \$38,400
Roadway Contract Plans	Lump Sum \$211,750
Traffic Signal Plans	Lump Sum \$50,000
Utility Coordination	Lump Sum \$17,250
Meetings and Project Management	Lump Sum \$22,750
Owner's Allowance	Hourly with Maximum Fee \$20,000

Total Estimated Budget.....\$360,150

Reimbursable expenses such as printing, shipping, plan/permit application fees, mileage, etc. are included in the above fees. The ADEM permit fee is not included and is the responsibility of the City.

Procedures for Changes in Scope of Work

The scope of work documented herein is based upon information known as of the date of this proposal. Should future changes (e.g. site plan, regulatory, project phasing, additional meetings, etc.) necessitate changes in the scope of work, we will contact you to discuss the scope of the additional work and its impact to our contracted fees and project schedule. No additional work will be undertaken by Sain or our subconsultants without your authorization.

Terms and Conditions

This contract is subject to the enclosed Terms and Conditions. All subsequent services required by you outside the scope of service specified will be performed on a time and materials basis according to the schedule of rates enclosed. Any modification to this contract document must be approved in writing by both parties with approval indicated by each signatory's initials and the date of approval.



Proposal Limitations

We reserve the right to withdraw or modify this proposal if not contracted within 60 days.

Schedule

Upon receipt of NTP, Sain will contact the City to determine a mutually agreeable schedule to achieve project completion.

Thank you for the opportunity to provide this proposal. If you have any questions or need clarification on any item, please call me. We look forward to working with you.

Sincerely,

SAIN ASSOCIATES, INC.

Nathan Currie, P.E.
Infrastructure Team Leader/Associate
AL No. 32400

OFFERED:

SAIN ASSOCIATES, INC.

BY: Alicia Bailey, P.E., Practice Leader/Sr.
Principal, AL No. 26339

Signature of Authorized Representative

Date: 2/29/24

ACCEPTED:

CITY OF OPELIKA

BY: _____

Signature of Authorized Representative

Print Name & Title

Date: _____

Enclosures:

Survey Exhibit A

Survey Exhibit B

Survey Exhibit C

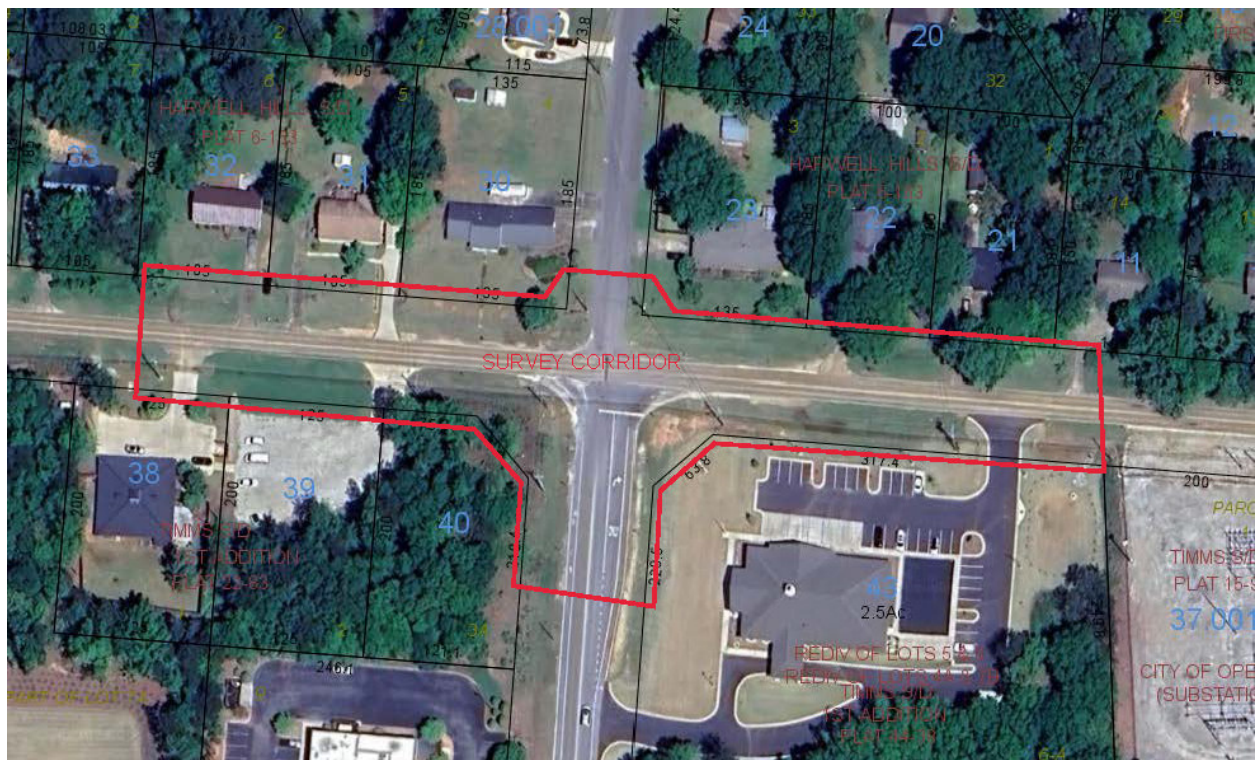
Preliminary Sketches (prepared by City)

Sain Terms & Conditions (sch. 2024)



Survey Exhibit A

Waverly Parkway at Dunlop Drive



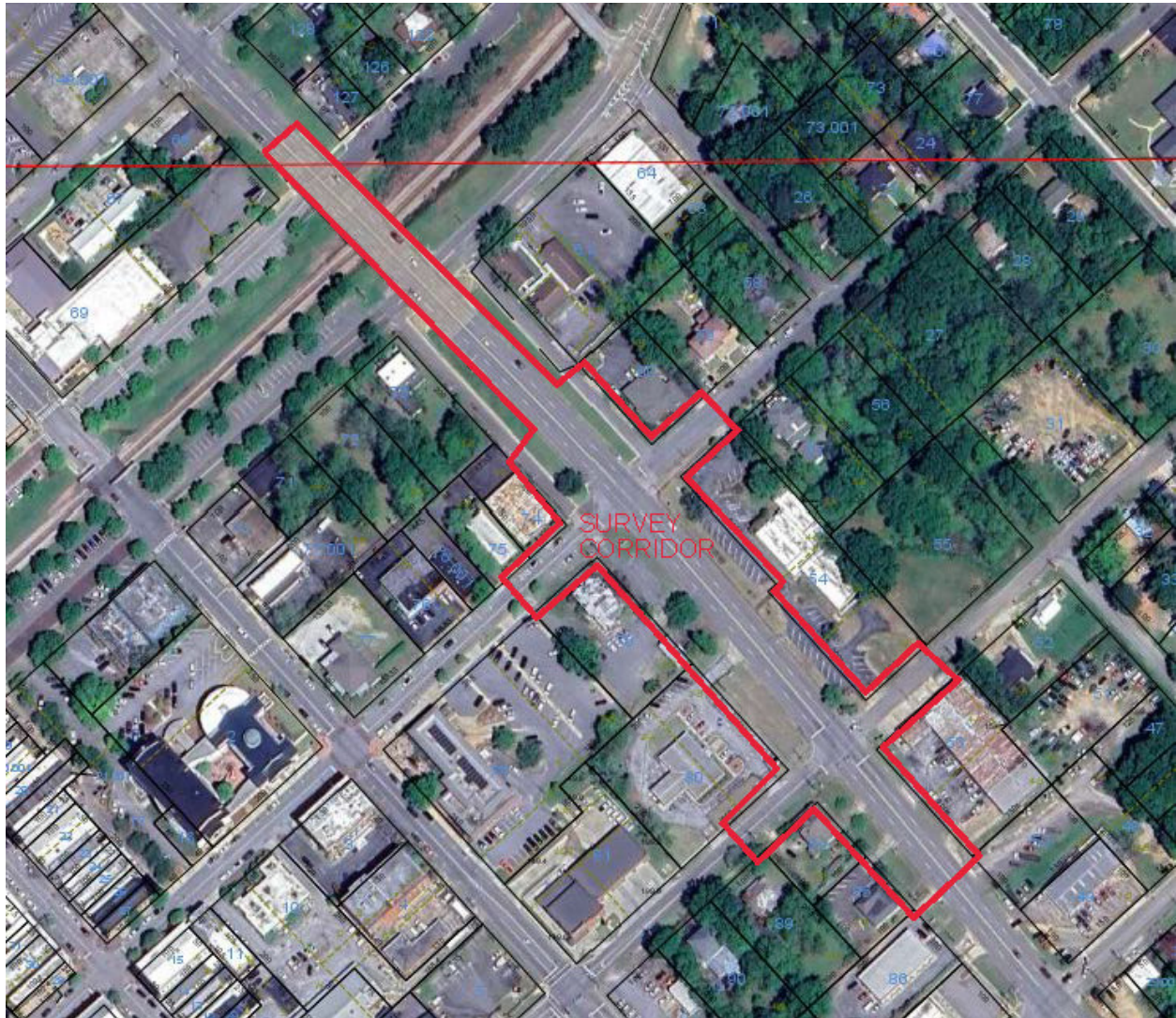


Survey Exhibit B
Morris Avenue at Rocky Brook Road

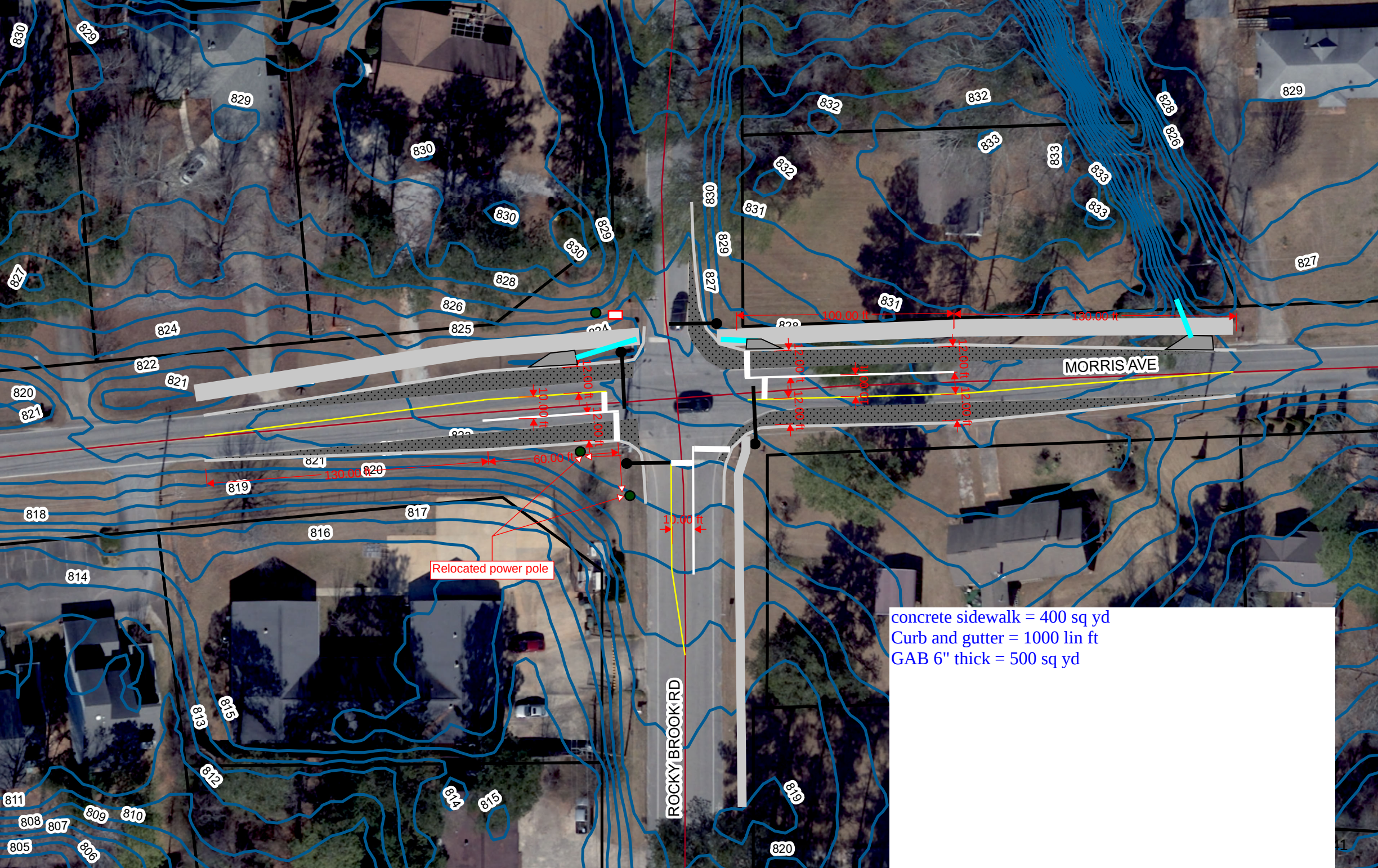




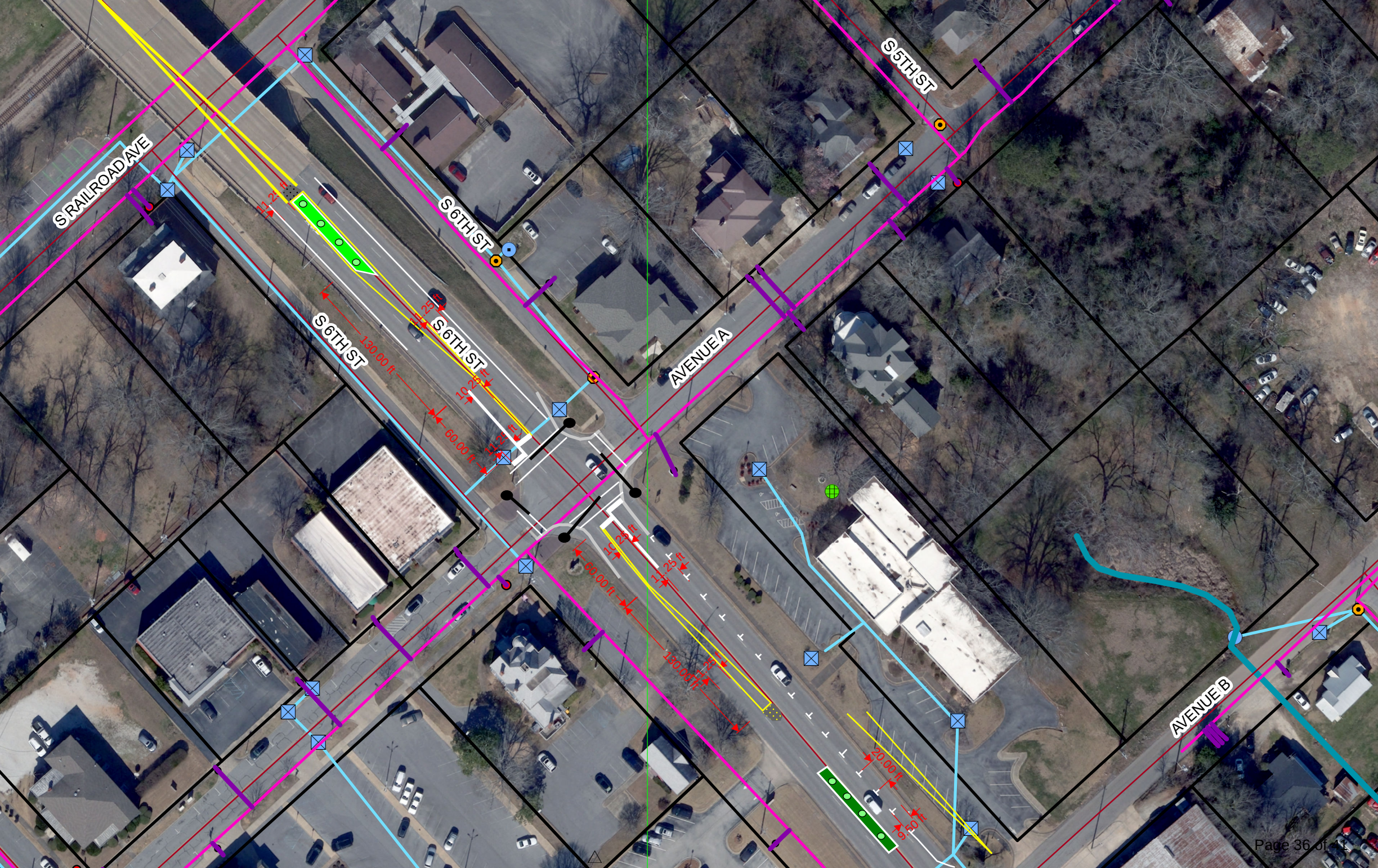
Survey Exhibit C
South 6th Street at Avenue A and Avenue B







concrete sidewalk = 400 sq yd
 Curb and gutter = 1000 lin ft
 GAB 6" thick = 500 sq yd



S RAILROAD AVE

S 6TH ST

S 5TH ST

S 6TH ST

S 6TH ST

AVENUE A

AVENUE B

SAIN ASSOCIATES, INC.

TERMS AND CONDITIONS

Rates:

Principal.....	\$220.00 - \$315.00 per Hour
Engineer/Planner.....	\$110.00 - \$168.00 per Hour
Senior Engineer.....	\$173.00 - \$240.00 per Hour
GIS Analyst.....	\$115.00 - \$136.00 per Hour
GIS Professional.....	\$148.00 - \$158.00 per Hour
Designer.....	\$100.00 - \$147.00 per Hour
Surveyor.....	\$115.00 - \$163.00 per Hour
Survey Crew (1-Person).....	\$115.00 per Hour
Survey Crew (1-Person + Robot).....	\$175.00 per Hour
Survey Crew (2-Person).....	\$200.00 per Hour
Survey Crew (3-Person).....	\$252.00 per Hour
Survey Per Diem.....	\$170.00 per person per Night
Administrative Support.....	\$68.00 - \$98.00 per Hour

Reimbursable Expenses

Printing, contract carrier service, and travel expenses are not included within Consultant's basic fee and will be passed along to Client at cost plus 10%.

Payment

Payment for services by Consultant is to be made monthly based upon the percentage of work completed and invoiced to Client. Client's obligation to pay for services rendered hereunder is in no way dependent upon its ability to obtain financing, to obtain payment from a third party, or to obtain approval of any governmental or regulatory agencies, or upon Client's successful completion of the project. Payment for services and expenses hereunder is due in full within thirty (30) days after receipt of invoice. For past due accounts exceeding 120 days Consultant will issue a past due statement with interest of 1½% per month from said thirtieth (30th) day. Consultant may elect to seek assistance in collection of accounts exceeding 120 days in which case Client will be billed for attorney's fees for collection in the amount of 1/3 of the outstanding balance or such greater amount as the court finds reasonable. Consultant reserves the right to suspend services under this agreement until receipt of payment in full for all amounts due for services rendered and expenses incurred.

Standard of Care

The standard of care for all professional services performed or furnished by Consultant under this Agreement will be consistent with, and limited to, the skill and care ordinarily provided by members of Consultant's profession practicing under the same or similar circumstances and professional licenses at the same time and in the same locality, as expeditiously as is prudent considering the ordinary professional skill and care of a reasonably prudent member of Consultant's profession. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

Responsibility of the Client

Client shall provide all criteria and full information as to Client's requirements for the Project, including budgetary limitations.

Reliance on Information Provided by Others

Consultant shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's Consultants and Contractors, and information from public records, without the need for independent verification.

Schedules, Budgets and Estimates or Opinions of Cost

Any schedules or completion dates, budgets, or estimates of cost prepared by Consultant represent Consultant's professional judgment based on its experience and available information. Since neither Consultant nor Client has control over: the cost of labor, materials, or equipment; or contractor's methods of determining prices; competitive bidding or market conditions; utility conflicts or right-of-way acquisition; agency approval times or actions of a Consultant Program Manager not employed by Sain, the Consultant cannot and does not warrant or represent that actual schedules, budgets or completion dates or actual costs will not vary from schedules or completion dates, budgets or estimates of cost prepared by Consultant or proposed, established, or approved by Client.

Approvals

Client agrees and acknowledges that the approval process necessary to maintain a project timeline is both unpredictable and outside of the Consultant's control. Consequently, the Consultant makes no representations as to its ability to timely achieve or to obtain said permits or approvals from any governing authority or outside agency.

Site Visits/Jobsite Safety/Construction Phase Services

Consultant and Client acknowledge and agree that the Consultant shall not have responsibility and will not be liable for jobsite safety or construction means and methods, regardless of whether Consultant's scope of services documented herein include site visits during the construction phase. The Consultant is not responsible for, and shall by no means be liable for, the acts or omissions of any owner, contractor, subcontractor, or material supplier.

Right of Entry

Client, at its sole cost and expense, shall furnish the Consultant, its agents, employees, and subcontractors a right-of-entry and any other authorizations or licenses needed for Consultant to enter the Project location to perform the services contemplated by this Agreement. Client agrees and acknowledges that the services provided by the Consultant may require certain activities that may disrupt the use of the Project's property location and may disturb, alter, or damage the terrain and vegetation thereabout and that Consultant will not restore the property to its original state.

Certifications

Consultant shall not be required to sign any documents, no matter by whom requested, that would result in Consultant's having to certify, guaranty, or warrant the existence of conditions that Consultant cannot ascertain or verify. Further, Consultant and Client acknowledge and agree that Consultant shall not be expected to provide any certifications unless expressly agreed upon by Consultant, as evidenced in writing within the scope of Consultant's work invoiced to Client.

Unforeseen Conditions and Occurrences

If, during the course of performance of services pursuant to this Agreement, any unforeseen hazardous substance, material, object, element, or other unforeseen conditions or occurrences are encountered which, in the Consultant's judgment, materially affects or may affect the services to be provided hereunder, the risk involved in providing the services, or the scope of the services, Consultant will notify Client. Subsequent to that notification, Consultant may: (a) if practicable, in Consultant's judgment and with Client's approval, complete the original scope of services in accordance with this Agreement; (b)



SAIN ASSOCIATES, INC.

TERMS AND CONDITIONS

agree with Client to modify the scope of services and the estimate of costs to include the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the Parties and incorporated herein; or (c) terminate the services effective on the date of notification for convenience.

Use of Electronic Media

Copies of documents that may be relied upon by the Client are limited to the printed copies (also known as hard copies) that are signed or sealed by Consultant. Files in electronic media format or text, data, graphic or other types that are furnished by Consultant to Client are only for convenience of the Client and are not intended as an end-product. Any use, conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, Consultant makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application, operating systems or computer hardware differing from those in use by Consultant at the beginning of this assignment.

Limitation of Liability

To the fullest extent permitted by law, the total liability, in the aggregate, of Consultant and Consultant's officers, directors, employees, agents, and consultants to Client and anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to Consultant's services, the Project or this Agreement, from any cause or causes whatsoever, including but not limited to, negligence, strict liability, breach of contract or breach of warranty shall not exceed the total compensation received by the Consultant under this agreement.

Consultant's Choice of Arbitration or Litigation

Client and Consultant agree that if a dispute arises out of or relates to this Agreement, the parties will attempt to settle the dispute through good faith negotiations. If direct negotiations do not resolve the dispute, the parties agree to endeavor to settle the dispute by mediation prior to the initiation of any legal action unless delay in initiating legal action would irrevocably prejudice one of the parties. Mediation shall take place in Jefferson County, Alabama, and if a mediator cannot be agreed upon by parties, then it is agreed that AAA (American Arbitration Association) will appoint a mediator. If mediation is unsuccessful, any such dispute shall be subject to and resolved at the election of Consultant, by either arbitration in accordance with the Rules of the AAA or by litigation in either the Circuit Court for Jefferson County, Alabama, or the United States District Court for the Northern District of Alabama.

Indemnification

Client and Consultant each agree to indemnify and hold the other harmless, and their respective officers, employees, and directors, from and against liability for losses, damages and expenses, including reasonable attorneys' fees, but only to the extent such losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of Client and Consultant, they shall be borne by each party in proportion to its negligence. In no event shall the indemnification obligation extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by any applicable statute of repose or statute of limitations.

Force Majeure

The Consultant shall not be responsible for delays caused by factors beyond the Consultant's reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, government ordered industry shutdowns, power or server outages, acts of nature, widespread infectious disease outbreaks (including, but not limited to epidemics and pandemics), failure of any governmental or other regulatory authority to act in a timely manner, failure of the Client to furnish timely information or approve or disapprove of the Consultant's services or work product, or delays caused by performance by the Client or by contractors of any level. When such delays beyond the Consultant's reasonable control occur, the Client agrees that the Consultant shall not be responsible for damages, nor shall the Consultant be deemed in default of this Agreement.

Termination of Contract

Client may terminate this Agreement with seven days prior written notice to Consultant for convenience or cause. Consultant may terminate this Agreement for cause with seven days prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until Consultant has been paid in full all amounts due for services, expenses and other related charges.

Ownership of Documents

All documents prepared or furnished by Consultant pursuant to this Agreement are instruments of Consultant's professional service, and Consultant shall retain an ownership and property interest therein. Consultant grants Client a license to use instruments of Consultant's professional service for the purpose of constructing, occupying, and maintaining the Project. Reuse or modification of any such documents by Client, without Consultant's written permission, shall be at Client's sole risk, and Client agrees to defend (at Consultant's option), indemnify, and hold Consultant harmless from all claims, damages, and expenses, including attorneys' fees, arising out of such reuse by Client or Client's disclosure of any such documents to any third party.

Third Parties

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or Consultant. Consultant's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against Consultant because of this Agreement or Consultant's performance of services hereunder.

Consequential Damages Waiver

Neither the Client nor the Consultant shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of, or connected in any way to the Project or this Agreement. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action including negligence, strict liability, breach of contract and breach of warranty.

Conflicting or Inconsistent Terms/Severability

In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any provision of this Agreement which is held to be void or unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions.

Schedule 2024



RESOLUTION NO. _____

WHEREAS, the Purchasing Department opened sealed bids for a contract for Printer Maintenance for the Information Technology Department; and

WHEREAS, Automated Business Machines, Inc. submitted the lowest bid meeting specifications; and

WHEREAS, funding for this contract is budgeted;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

1. That the contract be awarded to Automated Business Machines, Inc. on their low bid meeting specifications.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Automated Business Machines, Inc. on an as needed basis.
3. That the Controller be authorized to adjust the budget as necessary for this contract.
4. That the Mayor is hereby authorized to sign all documents pertaining to this contract.

APPROVED AND ADOPTED this the _____ day of _____, 2024.

C. E. "Eddie" Smith, Jr.
President of the City Council
City of Opelika, Alabama

ATTEST:

Russell A. Jones, CMC
City Clerk

FACT SHEET

SUBJECT: Sealed Bids – Bid #24014 – We are asking the council to approve a contract for Printer Maintenance

FACTS:

- Bid opening date – 2/27/24
- User Department – Information Technology
- The bid was mailed to 6 vendors
- 2 bids were received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to Automated Business Machines, Inc. on their low bid meeting specifications on an as needed basis.**

