



**CITY OF OPELIKA
CITY COUNCIL
WORKSESSION MEETING AGENDA
300 Martin Luther King Blvd.
November 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. Bid - One (1) Fiber Optic Splicing Trailer - OPS.
 2. Bid - West Ridge Park and Bandy Park LED Lighting Retrofit- P&R.
 3. Approve Professional Services Agreement with Barrett Simpson for the Sportsplex Parkway Extension Project - ENG.
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. _____

WHEREAS, the Purchasing Department opened sealed bids for one (1) Fiber Optic Splicing Trailer for the Power Services Department; and

WHEREAS, Midway Trailers, Inc. submitted the lowest bid meeting specifications; and

WHEREAS, funding for this purchase is budgeted;

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

1. That the purchase be awarded to Midway Trailers, Inc., on their bid meeting specifications.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Midway Trailers, Inc. in the total amount of \$40,995.00.
3. That the Controller be authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.

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, MMC
City Clerk

FACT SHEET

SUBJECT: Sealed Bid #25002 – We are asking the Council to approve the purchase of one (1) Fiber Optic Splicing Trailer

FACTS:

- Bid opening date –11/4/24
- User Department – Power Services
- The bid was mailed to 7 vendors
- 2 bids were received
- Budgeted purchase
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the bid be awarded to Midway Trailers Inc on their lowest bid meeting specifications in the total amount of \$40,995.00.**

RESOLUTION NO. _____

WHEREAS, the Purchasing Department opened sealed bids for West Ridge Baseball Fields LED Lighting Retrofit for the Parks & Recreation Department; and

WHEREAS, Floyd Service Center, submitted the lowest bid meeting specifications for Item 1; and

WHEREAS, Littleton Electric, submitted the lowest bid meeting specifications for Item 2; and

WHEREAS, funding for this contract will come from Unassigned Funds;

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

1. That the contract be awarded to Floyd Service Center and Littleton Electric, on their bid meeting specifications.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Floyd Service Center in the total amount of \$211,000.00 and Littleton Electric in the total amount of \$53,000.00.
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, MMC
City Clerk

FACT SHEET

SUBJECT: Sealed Bid – Bid #25001 – We are asking the Council to approve a contract of a West Ridge Baseball Fields LED Lighting Retrofit

FACTS:

- Bid opening date – 11/13/24
- User Department – Parks & Recreation
- The bid was mailed to 7 vendors
- 5 bids were received
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the bid be awarded to Floyd Service Center on their lowest bid meeting specifications in the amount of \$211,000.00 for Item 1 and Littleton Electric on their lowest bid meeting specifications in the amount \$53,000.00 for Item 2.**

RESOLUTION NO. _____

**RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT
WITH BARRETT SIMPSON, INC., IN CONNECTION WITH
SPORTSPLEX PARKWAY EXTENSION PROJECT**

WHEREAS, the City of Opelika, Alabama (hereinafter the “City”) intends to extend Sportsplex Parkway from the present intersection at Andrews Road, northwesterly to its intersection with Lafayette Parkway (U.S. Highway 431), approximately 1.1 miles (the “Project”); and

WHEREAS, it is anticipated that impacts to wetlands or Waters of the U.S. will be required by the Project; and

WHEREAS, the City also proposes to extend Sharp Street 0.23 miles to intersect with the Sportsplex Parkway Extension; and

WHEREAS, the City intends to include the extension of sanitary sewer infrastructure beginning at the existing trunk line east of Andrews Road and extending westerly along the stream until intersecting with the existing sanitary sewer line at Sharp Street and Industrial Boulevard, approximately 7600 linear feet; and

WHEREAS, the extension of said sanitary sewer infrastructure will allow for the existing Sharp Street lift station to be removed and for sewer to be extended 2800 linear feet along the proposed Sportsplex Parkway Extension; and

WHEREAS, the City has determined that there is a need for professional engineering services for work related to the Project, including engineering design, surveying and contract bidding assistance services; and

WHEREAS, Barrett- Simpson, Inc. (“Barrett-Simpson”) is a professional engineering firm that possesses the requisite knowledge, skill and resources to provide engineering services

to the City with respect to the Project; and

WHEREAS, City staff recommends Barrett-Simpson to perform said services; and

WHEREAS, a Professional Services Agreement (the “Agreement”) has been prepared by Barrett-Simpson 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; and

WHEREAS, the estimated compensation due to Barrett-Simpson under the Agreement is \$662,300, which shall come from the 2025 Budget for Roadway Improvements.

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

1. That the Agreement to be entered into by and between Barrett-Simpson, Inc., and the City, 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 Agreement.

2. That the Mayor is hereby authorized and directed to execute and deliver the Agreement in the name and 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 and the attached Agreement.

4. That the compensation to be paid to Barrett-Simpson, Inc., shall be paid from the 2025 Budget for Roadway Improvements, and the Controller is hereby authorized and directed to make all necessary and appropriate budget adjustments and accounting entries as necessary to implement this Resolution.

5. That the Purchasing-Revenue Manager is hereby authorized and directed to issue a purchase order to Barrett-Simpson for the provisions of engineering services as outlined in the Agreement attached hereto.

6 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

October 31, 2024

**PROFESSIONAL SERVICES AGREEMENT
FOR THE
SPORTSPLEX PARKWAY EXTENSION PROJECT
OPELIKA, ALABAMA**
BSI Project No. 24-0191

This Agreement entered into this the _____ day of _____, 2024 by and between Barrett-Simpson, Inc. (hereinafter sometimes referred to as BSI or Consultant) and The City of Opelika, Alabama (hereinafter sometimes referred to as the City, Owner or Client).

Project Overview

The City of Opelika, Alabama intends to construct a new extension to Sportsplex Parkway from the present intersection of Sportsplex Parkway and Andrews Road Northwesterly to its intersection with Lafayette Parkway (US HWY 431), approximately 1.1 miles (hereinafter referred to as the Project).

The City of Opelika also proposes to extend Sharp Street 0.23 miles to intersect with Sportsplex Parkway Extension. The Sharp Street extension is anticipated to be constructed in a manor to match the existing roadway.

The City of Opelika intends to include the extension of sanitary sewer infrastructure beginning at the existing trunk line east of Andrews Road and extending westerly along the stream until intersecting with the existing sanitary sewer at Sharp Street and Industrial Boulevard, approximately 7,600 linear feet. This will also allow for the existing Sharp Street lift station to be removed and for sewer to be extended 2,800 linear feet along the proposed Sportsplex Parkway Extension.

General Project Understanding

The following serves to give a basic understanding of the project and associated assumptions based on guidance from City staff:

- The new Sportsplex rail crossing will be an elevated bridge crossing, and the bridge design will be performed by a dedicated bridge consultant under a separate contract.
- Acquisition of right of way and or easement will be required from approximately eight (8) property owners and Assistance with right of way acquisition will be performed by the bridge consultant under a separate contract. BSI will provide right of way acquisition maps and legal descriptions of the various parcels to be acquired.
- The Sportsplex portion of the Project will be constructed as a two-lane road without curb and gutter, a design speed of 45 MPH, and a center median with a multi-use path on one side.
- The Sharp Street portion of the Project will be constructed as a two-lane road with curb and gutter and a design speed of 35 MPH.
- It is anticipated the major creek crossing along the Sportsplex Extension will be constructed with either traditional box culverts or a precast concrete bridge. The work associated with this crossing is included within this proposal.
- The Sanitary Sewer portion of this Project could be removed and all work tasks associated with the sewer are individually itemized in case of deletion.
- Boundary, topographic and utility surveys will be required for the Project and are included within this proposal.
- A Wetland/Stream delineation will need to be performed as the Project and is included within this proposal.
- A USACE Nationwide Permit will be required for the Project. The permitting cost of a US Army Corps of Engineers Nationwide 14 permit is included within this proposal, but any required mitigation costs will be borne by the City.
- In the event the stream or wetland impacts exceed the threshold for a Nationwide 14 permit, an Individual Permit may be required and can be performed under a separate Agreement.
- A traffic impact study will be required by ALDOT to evaluate the impact of Sportsplex Parkway Extension intersecting with US HWY 431. The cost of this study is included within the proposal.
- Right turn deceleration and left turn lanes are expected and are included within the scope of this Project. No traffic signal work is anticipated.
- A preliminary geotechnical evaluation will not be performed prior to letting the Project. It is understood from City staff that the Construction Contractor selected for the Project shall be required to provide geotechnical evaluation of specific areas after the Project commences.
- Although the Project consists of the separately identified elements of roadway (grade, drainage, base and pave) and utility construction, the Construction Plans will be prepared in a single plan set and the construction contract will be awarded to a single contractor.
- Preparation of Construction Plans in the ALDOT format is not a requirement of this Project, however the ALDOT Standard Specifications will be referenced.
- A National Pollutant Discharge Elimination System (NPDES) permit will be required by ADEM. BSI will prepare the permit and associated documents but permitting fees and the required monitoring and inspection will be the responsibility of the City.

Scope of Services

BSI will provide engineering, surveying, and contract administration services for the Project to include the following Tasks:

Task I **Preliminary Alignment** Services will consist of the following:

1. Generate a preliminary base map of the area using available property boundary, City-provided LiDAR topographic, and National Wetlands Inventory jurisdictional data
2. Perform an initial corridor study to include horizontal and vertical alignments on the Project
3. Investigate alternative corridor alignments with City staff to obtain recommended alignment

Task II **Environmental** Services will consist of the following:

1. Perform a Wetlands / Waters of the U.S. Delineation of the proposed corridor using the USACE 1987 Wetland Delineation Manual and its Regional Supplement and provide a delineation report of the findings
2. Perform a Cultural Resources Evaluation of the Project corridor to evaluate existing conditions and identify potential archaeological sites, historic structures, and other qualifying cultural resources within the project area. GPS mapping, photo-documentation, and preliminary evaluation of cultural resources will be conducted
3. Perform a habitat evaluation for threatened and endangered species and coordinate with the U.S. Fish and Wildlife Service regarding the findings of the proposed corridor

Task III **Data Collection - Roadway** Services will consist of the following:

1. Perform the necessary cadastral field surveys of the required roadway right of way and/or easement
2. Perform the necessary as-built, utility, and topographic field surveys required for the engineering design of the roadway Project

Task IV **Data Collection - Sewer** Services will consist of the following:

1. Perform the necessary cadastral field surveys of the required sewer easement
2. Perform the necessary as-built, utility, and topographic field surveys required for the engineering design of the sewer Project

Task V **Traffic Impact Study** Services will consist of the following:

1. Collect traffic volume, direction, and speed information on the affected roadways
2. Estimate future traffic volumes for use in determining proper intersection design.
3. Analyze collected and projected data to calculate existing and 2025 conditions at the study intersection
4. Prepare a Traffic Impact Analysis and submit same to ALDOT.

Task VI **ALDOT** Services will consist of the following:

1. Prepare the Permit Drawings for the new US Highway 431 intersection and associated turn lanes

2. Prepare the ALDOT Driveway Permit Submittal Packages and submittal of same to ALDOT
3. Attend informal meetings with ALDOT personnel relative to the approval of the Permit Drawings.
4. Modify the Permit Drawings as warranted based upon review comments and re-submission of same.

Task VII Roadway Design Services will consist of the following:

1. Utilizing all findings from previous Tasks, complete the engineering design, including hydrologic evaluation, of the Project and prepare Construction Documents in the form of Construction Plans. Elements of the Project to be shown on the single set of Construction Plans include, but are not limited to:
 - a. Roadway construction to include grading, drainage, erosion control, pavement buildup, striping, and signage
2. A review of the Construction Plans in progress will be made with the City at the approximate 25%, 75%, and 90% stage of completion. Following the 75% stage review any modifications to the basic design will be considered to be outside the scope of this Agreement
3. Prepare a Preliminary Estimate of Probable Construction Cost upon request

Task VIII Sewer Design Services will consist of the following:

1. Utilizing all findings from previous Tasks, complete the engineering design of the Project and prepare Construction Documents in the form of Sanitary Sewer Construction Plans to be included within the Roadway Construction Plan set.
2. A review of the Construction Plans in progress will be made with the City at the approximate 25%, 75%, and 90% stage of completion. Following the 75% stage review any modifications to the basic design will be considered to be outside the scope of this Agreement
3. Prepare a Preliminary Estimate of Probable Construction Cost upon request

Task IX Roadway Right-of-Way Services will consist of the following:

1. Prepare the map and legal description exhibits required for the acquisition of the required right of way and/or easements, and/or vacation of any existing right of way no longer beneficial to the City
2. Provide these documents to separate consultant for their presentation to existing property owners

Task X Sewer Easement Services will consist of the following:

1. Prepare the map and legal description exhibits required for the acquisition of the required easements
2. Provide these documents to separate consultant for their presentation to existing property owners

Task XI **Permitting** Services will consist of the following:

1. Prepare an application package for a US Army Corps of Engineers nationwide permit for impacts to jurisdictional Wetlands and/or Waters of the U.S
2. Prepare an NPDES Permit and submittal of same to ADEM

Task XII **Contract Assistance** Services will consist of the following:

1. Assist the City in preparation of a bid package
2. Assist the City in the solicitation of bids from reputable and qualified contractors
3. Respond to bidders' questions and requests for information
4. Assist the City in preparation and issuance of Addenda to the bid documents if necessary
5. Participate in the opening of bids
6. Review all bids and make a recommendation of award
7. Provide representation at a Pre-construction meeting

Deliverables

Items to be delivered to Client for this Project will include:

- Preliminary alignment map(s)
- Environmental reports
- Boundary, Topographic, Utility Surveys
- Traffic Impact Study
- ALDOT Submittal Packages
- Engineered Design Documents
- Estimates of Probable Construction Cost
- Right-of-Way/Easement Acquisition Exhibits and Descriptions
- Permit Packages

All items will be delivered as hard copies or in electronic form according to Client needs. CAD files will be delivered in AutoCAD format using BSI's layering system and plot styles. Other electronic files will be delivered in PDF format.

Deviation of the previously outlined scope is extra work; however, no work will be performed outside the scope of this Agreement without prior Client approval and Agreement amendment.

Compensation

Our fees for the furnishing of the above outlined services will be according to the following schedule. Payment will be expected periodically as the work progresses, but no more often monthly, in direct proportion to the stage of work completed. Final billing upon completion of all Tasks will be for 100% of the total stated compensation less all previous payments received.

<u>Task</u>	<u>Fee</u>
Task I Preliminary Alignment	\$41,400
Task II Environmental	\$13,200
Task III Data Collection - Roadway	\$66,300
Task IV Data Collection - Sewer	\$39,800
Task V Traffic Impact study	\$28,600
Task VI ALDOT	\$14,700
Task VII Roadway Design	\$335,100
Task VIII Sewer Design	\$79,200
Task IX Roadway Right-of-Way	\$10,300
Task X Sewer Easement	\$8,600
Task XI Permitting	\$12,400
Task XII Contract Assistance	\$12,700
<u>Total</u>	\$662,300

Fees will be invoiced, due and payable as follows:

- 1) According to the schedule outlined in the Compensation section.
- 2) Payment is due upon presentation of invoice and is past due thirty (30) calendar days from invoice date. Client agrees to pay a finance charge of one and one-half percent (1½%) per month, or the maximum rate allowed by law, on past due accounts.
- 3) Any payment made by credit or debit card will be subject to an additional 2% convenience fee.
- 4) Any attorney fees, collection fees or costs related or incurred in the collection of any past due amounts shall be paid by Client. The Client will be responsible for all consultant, connection, application, review and permit fees. Application, review, and permit fees will be due and payable prior to submittal of the application, review and permit packages. Any remaining permit fees will be due and payable as required by the permitting agency.

Insurance

BSI shall maintain the following insurance in at least the minimum amounts specified below throughout the duration of this Agreement:

- A. Workman's Compensation and Employer's Liability as required by Alabama law, \$1,000,000 Policy Limit
- B. Automobile, Bodily Injury and Property Damage Liability covering any auto, all owned autos, hired autos and non-owned autos \$1,000,000 Combined Single Limit (each accident)
- C. Professional Liability, \$2,000,000 per claim, \$2,000,000 aggregate
- D. Commercial General Liability, \$1,000,000 each occurrence, \$2,000,000 general aggregate, \$2,000,000 products – completed operations aggregate, \$1,000,000 personal injury
- E. Excess Liability Umbrella, \$1,000,000 each occurrence, \$1,000,000 aggregate

Hazardous Environmental Conditions

It is acknowledged by both parties that Consultant's scope of services does not include any services related to the presence at the site of asbestos, PCB's, petroleum, hazardous waste or radioactive materials. Client acknowledges that Consultant is performing professional services for Client and Consultant is not and shall not be required to become an "arranger", "operator", "generator" or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1990 (CERCLA).

Opinions of Cost

Opinions or estimates of probable construction cost are prepared on the basis of Consultant's experience and qualifications and represent Consultant's judgment as a professional generally familiar with the industry. However, since Consultant has no control over the cost of labor, materials, equipment, or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, Consultant cannot and does not guarantee that proposals, bids, or the actual construction cost will not vary from Consultant's opinions or estimates of probable construction cost.

Standard of Care

The standard of care for all professional services performed or furnished by Consultant under this Agreement will be the skill and care used by members of Consultant's profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

Applicable Requirements

BSI shall, at appropriate times, contact the government authorities required to approve the Project Construction Plans and other entities providing utility services to the Project. In designing the Project, BSI shall respond to applicable design requirements imposed by such government authorities and by such utility entities.

Responsibility for Accuracy of the Construction Plans

BSI shall be responsible for the accuracy of its work and shall promptly make necessary revisions or corrections resulting from its errors, omissions or negligent acts without compensation. BSI will not be relieved of responsibility for subsequent correction of such errors or omissions or for clarification of any ambiguity until the construction phase of the Project has been completed.

Use of Electronic Media

Copies of documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) that are signed or sealed by Consultant. Files in electronic formats if supplied under this contract, or other types of information furnished by Consultant to Client such as text, data, or graphics, are for convenience of Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic formats, Consultant makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software

application packages, operating systems or computer hardware differing from those in use by Consultant at the beginning of this project.

Independent Contractor Status and Sole Responsibility

BSI, in performance of the Agreement, is an independent contractor and not an agent or employee of City. BSI shall not represent itself as an agent or employee of the City and shall have no power to bind the City in contract or otherwise. BSI has and shall retain the right to exercise and retain full control over the employment, direction, compensation and discharge of all persons assisting BSI in the performance of the services rendered under this Agreement. BSI shall be solely responsible for all matters relating to the payment of its employees, including compliance with Social Security, withholding and all other regulations governing such matters.

BSI has been hired by the City because of BSI's specialized expertise in performing the work described in this Agreement. BSI shall be solely responsible for such work. The City's review, approval and/or adoption of any designs, plans, specifications or other work shall be in reliance of BSI's specialized expertise and shall not relieve BSI of its sole responsibility for the work. The City is under no obligation to review or verify the appropriateness, quantity or accuracy of any designs, plans, specifications or any other work including, but not limited to any methods, procedures, tests, calculations, drawings or other information used or created by BSI in performing any work under this Agreement.

Hold Harmless Provisions

Except for the negligence or willful misconduct of the City, BSI agrees to indemnify and hold harmless the City and any of its boards, elected officials, officers, agents, employees and assigns from and against all suits and causes of action, claims, losses, demands and expenses, including but not limited to, attorney's fees and cost of litigation (including all actual litigation cost incurred by the City, including but not limited to, cost of experts and consultants) damages or liability of any nature whatsoever for any death or injury to any person including BSI's employees or agents, or damage or destruction of any property of either party hereto or of third parties arising in any manner by reason of the nonprofessional negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by BSI or its subcontractors. All rights and remedies available to the City are cumulative of those provided for elsewhere and those allowed under the laws of the United States, the State of Alabama and the City.

To the fullest extent permitted by law, when the services to be provided under this Agreement are design professional services, BSI shall indemnify, protect and hold harmless the City, its officers and employees from and against all costs, expenses (including attorney's fees), judgments, civil fines and penalties, liabilities and losses of any kind or nature whatsoever which may be sustained or suffered by or secured against the City, its officers and employees that arise out of, pertain to, or relate to the negligence in the performance of professional services by BSI or any officer, employee, agent or subcontractor, excepting only liability resulting from the negligence or willful misconduct of the City.

Ownership of Documents

All documents, information and materials of any or every type prepared by BSI pursuant to this Agreement shall be the property of the City. Such documents shall include but not be limited to data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by BSI in performing work under this Agreement, whether completed or in process. BSI shall assume no responsibility for the unintended use by others of any documents, information or materials which are not related to the scope of services described in this Agreement.

Compliance with Immigration Laws

BSI agrees to fully comply with the Immigration Reform and Control Act of 1986, as amended, by the Immigration Act of 1990 and the Beason-Hammond Alabama Taxpayer and Citizen Protection Act, as amended. Under the performance of the Agreement, BSI agrees to participate in the E-Verify Program and shall verify every employee that is required to be verified according to applicable federal rules and regulations. BSI agrees that it will not violate federal immigration law and will not knowingly employ, hire for employment or continue to employ an unauthorized alien within the State of Alabama.

Dispute Resolution

With the exception of Client's failure to pay Consultant as per the terms of this Agreement, Client and Consultant agree that they shall first submit any and all unsettled claims, counterclaims, disputes and other matters in question between them arising out of or relating to this Agreement to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, effective as of the date of this Agreement.

In the event that a dispute should arise relating to this Agreement, and should that dispute result in legal action including alternate dispute resolution methods, and should Consultant prevail in the defense of the claim, it is agreed that Consultant shall be entitled to recover all reasonable costs incurred in the defense of the claim, including staff time, court costs, attorney's fees, and other claim-related expenses.

Termination of Contract

This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party; provided, that no such termination may be effected unless the other party is given (1) not less than ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.

Upon receipt of termination action pursuant to the above paragraph, BSI shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to the City all data, drawings, specifications, reports, estimates, summaries and other such information and materials as may have been accumulated by BSI in performing this Agreement whether completed or in process.

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.

Choice of Law

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

Venue

Both parties agree that venue shall be limited to Lee County, Alabama.

Proposal Validity

This Agreement represents the entire understanding between Barrett-Simpson, Inc. and The City of Opelika, Alabama in respect to the Project and may only be modified in writing signed by both parties.

Barrett-Simpson, Inc.

Signed: _____

By: _____
(Name and Title)

Date: _____

The City of Opelika, Alabama

Signed: _____

By: _____
(Name and Title)

Date: _____

- NOTES:**
1. This drawing represents a conceptual plan for the development of the subject property. There may be factors that could affect the development, use and/or yield of the property which would only be disclosed by a thorough site assessment, including boundary survey, topographic survey, environmental assessment, wetlands delineation and utility availability, which may not have been performed for the purpose of this plan. There is no assurance by Barrett-Simpson, Inc. that the property can be developed according to this plan, or at a reasonable cost.
 2. Property lines and contours shown were taken from various online data sources and are shown for informational and planning purposes only. Data not field verified by Barrett-Simpson, Inc. at this time.

PRELIMINARY LAYOUT OF
SPORTSPLEX EXTENTION
BEING A PART OF SECTION 33 , TOWNSHIP 20 NORTH, RANGE 27 EAST,
OPELIKA, LEE COUNTY, ALABAMA

