



OPELIKA CITY COUNCIL
“ REGULAR MEETING MINUTES “
204 South 7th Street
November 3, 2015
TIME: 7:00 PM

1. Call to Order
2. Roll Call
 1. Patricia Jones, Larry Gray, Dozier Smith T, David Canon, Eddie Smith
3. Invocation

Antione Harvis with the Family Resource Center provided the invocation.

4. Pledge of Allegiance
 1. Adrian Jackson and Jahniya Patterson from Carver Primary school will lead the pledge.
5. Reading of Minutes
 1. Minutes from the City Council Meeting of 10-20-15.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Patricia Jones, President Pro-Tem
SECONDER:	Larry Gray, Council Member
AYES:	Jones, Gray, Smith T, Canon, Smith

6. Unfinished Business
7. Remarks By the Mayor

Mayor Fuller thanked all the city council members for attending his 12th annual prayer breakfast this morning.

Mayor Fuller said that he, Lori Huguley and Ronnie Wilson had a productive trip to Korea calling on current businesses with operations in Opelika and also new business prospects.

8. Citizen Communications

(Limit comments to five minutes or less)

Oscar Penn thanked Chief McEachern for the press conference he gave concerning the police officer shooting that took place Saturday night. My concern is the lack of leadership from the black City Council members. You have not come forward to let us know what is going on. The community is asking information, leadership and guidance.

President pro-tem Jones stated that she respected Mr. Penn's voice of concern but, all you need to do is call me. You are making a subjective statement and you do not know what I have done concerning the recent shooting. This is not a publicity issue. My prayers are for the family and the police officer.

President Smtih advised Mr. Penn that he was out of line. We are the Legislative body of the City and it is not appropriate for the City Council members to get personally involved. Mr. Penn apologized for his comments.

Councilman Gray stated to Mr. Penn that if you have a problem with my integrity you need to come see me. I want a peaceful resolution to the current shooting and I am all about finding out the facts and the truth.

9. Report of Disbursements

10. Committee Reports

11. General Business

12. Awarding of Bids

1. Bids 290-15 Ten (10) Cardboard Recycling Cage Trailers - SW

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: Dozier Smith T, Council Member

AYES: Jones, Gray, Smith T, Canon, Smith

13. Resolutions

1. Resolution 291-15 Expense Reports from Various Depts.

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: David Canon, Council Member

AYES: Jones, Gray, Smith T, Canon, Smith

2. Resolution 292-15 Designate City Personal Property Surplus and Authorize Disposal

RESULT: APPROVED [UNANIMOUS]

MOVER: David Canon, Council Member

SECONDER: Larry Gray, Council Member

AYES: Jones, Gray, Smith T, Canon, Smith

3. Resolution 293-15 Purchase One (1) 2015 Peterbilt Model 320 Chassis with McNeilus Model 2849 Body - SW

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Larry Gray, Council Member

AYES: Jones, Gray, Smith T, Canon, Smith

4. Resolution 294-15 Engineering Funds for Erosion and Sediment Control Workshop

RESULT: APPROVED [UNANIMOUS]

MOVER: Larry Gray, Council Member

SECONDER: David Canon, Council Member

AYES: Jones, Gray, Smith T, Canon, Smith

5. Resolution 295-15 Software License & Services Agreement, Supplement 6 & 7 - Five Inc.

- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
6. Resolution 296-15 Agreement, Annual Auditing Services - AC
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
7. Resolution 297-15 Annual Appropriation Contract, Chamber of Commerce.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Larry Gray, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith
8. Resolution 298-15 Annual Appropriation Contract, J. W. Darden.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: David Canon, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
9. Resolution 299-15 Annual Appropriation Contract, Opelika Main Street.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Larry Gray, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
10. Resolution 300-15 Annual Appropriation Contract, Storybook Farm.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith
11. Resolution 301-15 Authorization of GO Warrants, Series 2015 & 2016.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
12. Resolution 302-15 Agreement, PBM Services & Membership with Magellan Rx Management, Inc.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: David Canon, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
13. Resolution 303-15 Reorganization, New Job Classifications - Pur-Rev, PLanning.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith

14. Resolution 304-15 Microsoft Enterprise Agreement - Amendment

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith

15. Resolution 305-15 Engagement Letter with Rogers Towers / Sign Ord.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith

16. Resolution 306-15 Special Appropriation to Main Street for Christmas in a RR Town.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Larry Gray, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith

14. Ordinances

1. Ordinance 126-15-ORD Amend City Code, Add Article X & XI, Procedures for Wrecker Services - OPD - 2Nd Reading.

RESULT: **SECOND READING AND APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith

15. Appointments

16. Adjourn

These City Council meeting minutes of 11-3-15 are hereby adopted and approved this the ____ day of _____, 2015.

/s/

President of the City Council

City of Opelika, Alabama

ATTEST:

City Clerk - Treasurer

1. Motion to adjourn
The council meeting ended at 7:26 PM.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Larry Gray, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith



City Council
204 South 7Th Street
Opelika, AL

ADOPTED

CM MINUTES (ID # 1417)

Meeting: 11/03/15 07:00 PM
Department: City Clerk
Category: CM Minutes
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

DOC ID: 1417

Minutes from the City Council Meeting of 10-20-15.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Larry Gray, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith



OPELIKA CITY COUNCIL

“ REGULAR MEETING MINUTES “

204 South 7th Street

October 20, 2015

TIME: 7:00 PM

1. Call to Order
2. Roll Call
 1. Patricia Jones, Larry Gray, Dozier Smith T, David Canon, Eddie Smith
3. Invocation
 1. Councilman Canon provided the invocation.
4. Pledge of Allegiance
 1. Mayor Fuller lead the pledge of allegiance.
5. Reading of Minutes
 1. Minutes from the 10-06-15 Council Meeting.

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Larry Gray, Council Member

AYES: Jones, Gray, Smith T, Canon, Smith
6. Unfinished Business
7. Remarks By the Mayor
 1. August 2015 Financial Report
Mayor Fuller stated for the record the August financial summary was in the council packets for their review and questions.
 2. September 2015 Building Reports
Mayor Fuller called on Joey Montley, City Administrator, to provide a summary of said report.
 3. Recognize 20<40 class member - P.J. Simmons.
Mayor Fuller thanked Ms. Simmons for participating in the 20 Under 40 class and for attending the city council meeting.
 4. Recognize the AU CPS program and their star dog named "Opelika".
Mayor Fuller asked the AU representatives to come up front and bring the detector dog named 'Opelika' and her mother named 'Lillie'.
 5. Recognize the police officer of the Quarter - Damion Barry.
Mayor Fuller asked Damion Barry to come up front and be recognized as the police officer of the quarter.
 6. Recognize Fire Figher of the Year - Bob Parsons. Runner up - Billy Bowins, Zach Nelson.
Mayor Fuller asked Bob Parsons to come up front and be recognized as the Fire Figher of the year.
8. Citizen Communications
(Limit comments to five minutes or less)
 1. Oscar Penn stated that the street art at the four intersections in the Carver-Jeter community is great. He asked the City to consider putting up historical markers to recognize various Opelika African-Americans that have significant achievements and contributions to Opelika. President pro-tem Jones stated the Carver-Jeter plan already contains such suggestions.
9. Report of Disbursements

10. Committee Reports

11. General Business

1. Request Temporary Street Closure of 7Th Street, Veterans Day Event.

RESULT: APPROVED [UNANIMOUS]**MOVER:** Patricia Jones, President Pro-Tem**SECONDER:** David Canon, Council Member**AYES:** Jones, Gray, Smith T, Canon, Smith

2. Request by Jefferson's Restaurant for a Restaurant Retail Liquor & Retail Beer on Premise License

RESULT: APPROVED [UNANIMOUS]**MOVER:** Dozier Smith T, Council Member**SECONDER:** David Canon, Council Member**AYES:** Jones, Gray, Smith T, Canon, Smith

3. Public Hearing, Vacate a Portion of King Street, Accessed from Century Blvd
-
- President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said vacating. No one came forward to speak. President Smith closed the public hearing.

4. Public Hearing, Project Agreement - SE Land Holdings, LLC.

President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said project agreement. No one came forward to speak. President Smith closed the public hearing.

12. Awarding of Bids

13. Resolutions

1. Resolution 277-15 Expense Reports from Various Departments.

RESULT: APPROVED [UNANIMOUS]**MOVER:** Dozier Smith T, Council Member**SECONDER:** Larry Gray, Council Member**AYES:** Jones, Gray, Smith T, Canon, Smith

2. Resolution 278-15 Designate City Personal Property Surplus and Authorize Disposal.

RESULT: APPROVED [UNANIMOUS]**MOVER:** Patricia Jones, President Pro-Tem**SECONDER:** Dozier Smith T, Council Member**AYES:** Jones, Gray, Smith T, Canon, Smith

3. Resolution 279-15 Vacate Portion of King Street - Accessed from Century Boulevard

RESULT: APPROVED [UNANIMOUS]**MOVER:** Larry Gray, Council Member**SECONDER:** Patricia Jones, President Pro-Tem**AYES:** Jones, Gray, Smith T, Canon, Smith

4. Resolution 280-15 Proposal from IHeartMedia - Radio Advertising for OPS

RESULT: APPROVED [UNANIMOUS]**MOVER:** David Canon, Council Member**SECONDER:** Dozier Smith T, Council Member**AYES:** Jones, Gray, Smith T, Canon, Smith

5. Resolution 281-15 Contract with Decisions Inc. - Fire Captain Validated Selection Procedures.

- RESULT:** APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith
6. Resolution 282-15 Engineering Funds for a Donation to Save Our Saugahatchee
RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: David Canon, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
7. Resolution 283-15 Annual Appropriation Contract - Lee County Humane Society.
RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Larry Gray, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
8. Resolution 284-15 Annual Appropriation Contract, Al. Cooperative Extension Service.
RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
9. Resolution 285-15 Annual Appropriation Contract - Lee Co. Youth Development Center.
RESULT: APPROVED [UNANIMOUS]
MOVER: Larry Gray, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
10. Resolution 286-15 Annual Appropriation Contract - Valley Haven School.
RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith
12. Resolution 288-15 Microsoft Enterprise Agreement - IT
RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith
13. Resolution 289-15 Annual Appropriation Contract, Child Advocacy Center.
RESULT: APPROVED [UNANIMOUS]
MOVER: Larry Gray, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
14. Ordinances
 1. Ordinance 125-15-ORD Project Development Agreement - SE Land Holdings, LLC - 1St Reading.
 Said ordinance was introduced by Mr. Canon. Ms. Jones then made the motion to suspend the rules and was seconded by Mr. Smith T. The following vote was recorded:
 Ayes Jones, Gray, Smith T, Canon, Smith.

Nay None.

RESULT: FIRST READING AND APPROVED [UNANIMOUS]

MOVER: David Canon, Council Member

SECONDER: Larry Gray, Council Member

AYES: Jones, Gray, Smith T, Canon, Smith

2. Ordinance Amend City Code, Add Article X & XI, Procedures for Wrecker Services - OPD - 1St Reading.

Said ordinance was introduced by Ms. Jones.

RESULT: FIRST READING INTRODUCED

15. Appointments

16. Adjourn

These City Council meeting minutes of 10-20-15 are hereby adopted and approved this the ____ day of _____, 2015.

/s/

President of the City Council

City of Opelika, Alabama

ATTEST:

City Clerk - Treasurer

1. Motion

The council meeting was ended at 7:35pm.

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Patricia Jones, President Pro-Tem

AYES: Jones, Gray, Smith T, Canon, Smith



City Council

204 South 7Th Street
Opelika, AL

ADOPTED

BIDS 290-15

Meeting: 11/03/15 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Angela Norrell
Sponsors:
DOC ID: 1414

Ten (10) Cardboard Recycling Cage Trailers - SW

RESOLUTION NO. _____

WHEREAS, the Purchasing Department opened sealed bids for the purchase of Ten (10) Cardboard Recycling Cage Trailers for the Solid Waste Department; and

WHEREAS, FunCarts of Opelika, Inc. submitted the sole bid meeting specifications; and

WHEREAS, this is a budgeted purchase;

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

1. That the bid be awarded to FunCarts of Opelika, Inc. on their sole bid meeting specifications.
2. That the Purchasing-Revenue Manager be authorized to issue a purchase order to Fun Carts of Opelika, Inc. in the amount of \$25,050.00.
3. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.
4. That the Controller be authorized to adjust the budget as necessary for this purchase.

APPROVED AND ADOPTED this the ____ day of _____ 2015.

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

ATTEST:

Robert G. Shuman
City Clerk - Treasurer

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Patricia Jones, President Pro-Tem
SECONDER:	Dozier Smith T, Council Member
AYES:	Jones, Gray, Smith T, Canon, Smith

FACT SHEET

SUBJECT: Sealed Bid #B15-029 – Purchase – Ten (10) Cardboard Recycling Cage Trailers

FACTS:

- Bid opening date – 10/19/15
- User Departments – Solid Waste Department
- The bid was mailed to 16 vendors
- 1 bid received
- Budgeted purchase
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend bid be awarded to FunCarts of Opelika, Inc. on their sole bid meeting specifications in the amount of \$25,050.00.**

BID# B15-029 DATE: 10/19/15 DEPT: SOLID WASTE
DESCRIPTION: TEN (10) CARDBOARD RECYCLING CAGE TRAILERS

16 VENDORS INVITED
1 BID RECEIVED

VENDOR	TOTAL PRICE	DELIVERY	TERMS	DISCOUNT
CARL GREGORY INC				
DAVIS MACHINE WORKS INC				
FREIGHTLINER OF SOUTHERN ALA				
FUNCARTS OF OPELIKA INC	\$ 25,050.00	30 DAYS	--	--
GULF CITY BODY & TRAILER WORKS				
INGRAM EQUIPMENT CO LLC				
MCLENDON TRAILERS LLC				
MELSON TRACTOR CO				
METRAC				
O & G HUGHES & SONS INC				
PITTS ENTERPRISES INC				
RENTAL INC				
SHERMAN AND REILLY INC				
SOUTHERN TRAILER DEPOT				
TRUCK EQUIPMENT SALES INC				
WILHITE TRAILER & AUTO SALES				

RESOLUTION NO. 291-15

Expense Reports from Various Depts.

RESOLUTION NO. _____

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

-) That the following employees were required by the City of Opelika to travel on City business and/or attend a training session, meeting or conference.

Employee	Department	\$ Amount
-----	-----	
Marty Ogren	Planning	597.32
Anita Comer	Municipal Court	221.45
Tyler Chaffee	Economic Development	43.70
Gary Fuller	Mayor's Office	498.20
Lisa McLeod	Human Resources	84.33

-) That attached is an expense report(s) prepared, dated and signed by the City employee or official covering the various expenses incurred on said trip and reviewed/approved by the City's accounting department and City official(s).
- 3) That the Opelika City Council hereby approves the attached expense reports for reimbursement to said City employee or official.
- 4) That the Mayor and/or appropriate City official is hereby directed and authorized to take the necessary steps so a check can be prepared covering the attached expense reports.
- 5) That the City Treasurer is authorized to sign said check so it can be delivered to the appropriate City employee or official.

ADOPTED and APPROVED this the ____ day of _____, 2015.

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

ATTEST:

Robert G. Shuman, CMC
City Clerk - City Treasurer

NAME

Marty Ogren

DEPARTMENT

Planning

PERIOD ENDING

10/9/2015

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUBLIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN												0.
MON												0.
TUE												0.
WED 10/7	Orange Beach, Al	154.29							18.10		250.00	422.
THU 10/8	Orange Beach, Al	154.29							13.20			167.
FRI 10/9	Orange Beach, Al						7.44					7.
SAT												0.
WEEKLY CATEGORY TOTALS \$		308.58	0.00	0.00	0.00	0.00	7.44	0.00	31.30	0.00	250.00	597.

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PUPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS

NUMBER OF DAYS AWAY FROM HOME

three

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0%

NATURE OR PURPOSE OF TRAVEL

Attend the 2015 Ala-Miss Annual Conference - Alabama Chapter American Planning Association

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM MY ADVANCE

☒ MAIL: TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT
10/07 to 10/9	Registration Fee for 2014 Ala-Miss Annual Planning Conference (ALAPA)	250.00

Employee: Marty Ogren

Department: Planning

SIGNATURE

APPROVED BY

Packet Pg. 17

Attachment: CM 11-03-15, expense reports. (291-15 : Expense Reports from Various Depts.)

EXPENSE REPORT

13.1.a

PERIOD ENDING

10-16-15

NAME

Name

Anita Z. Comer

DEPARTMENT

Department

Municipal Court

DAY	CITY AND STATE	LODGING	TRANSPORTATION			BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC	RENTAL CAR MILEAGE	LOCAL TAXI, TOLLS & PUBLIC TRANSIT	BREAKFAST	LUNCH	DINNER			
SUN 9-20-15	Orange Beach, AL			37.16							292.44
MON											0.00
TUE											0.00
WED 9-16-15	Auburn, Alabama			33.83							- 33.83
THU											0.00
FRI											0.00
SAT											- 37.16
WEEKLY CATEGORY TOTALS \$		0.00	0.00	- 70.99	0.00	292.44	0.00	0.00	0.00	0.00	221.45

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS

NUMBER OF DAYS AWAY FROM HOME

5

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0

NATURE OR PURPOSE OF TRAVEL

2015 AMCCMA Conference

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM MY ADVANCE☒ MAIL TO

Acct # 00151904123001

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT
9-16-15	From 501 S. 10th St. Opelika, AL to through 2700 Perdido Beach + back	
9-20-15	254.36 X 2 = 508.60 X .575 = 292.44	
	292.44 - 70.99 =	221.45

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT

SIGNATURE

APPROVED BY

Packet Pg. 18

Attachment: CM 11-03-15, expense reports. (291-15 : Expense Reports from Various Depts.)

Expense Report

Tyler Chaffee

ECONOMIC DEVELOPMENT

Period Ending

10/21/2015

ITEMIZE ALL REIMBURSABLE EXPENSE IN APPROPRIATE BLANKS - ITEMIZE ANY NON-REIMBURSABLE EXPENSES ON REVERSE OF LAST COPY

				TRANSPORTATION				BUSINESS MEALS				MISC.		
				Itemize Below				ENTERTAINMENT			EXPENSES		DAILY TOTAL	
Date	Day	CITY AND STATE	LODGING	AIR, RAIL, ETC.	RENTAL CAR, LIMO, ETC.	LOCAL TAXI, TOLLS & PUBLIC TRANSIT		AUTO EXPENSES	BREAKFAST	LUNCH	DINNER	Itemize Below	Itemize Below	
10/16/2015	Friday	Opelika, AL						21.85						21.85
10/16/2015	Friday	Ft. Benning, GA						21.85						21.85
														</

WEEKLY CATEGORY TOTALS\$

WEEKLY TOTAL OF EXPENSES

ITEMIZED ENTERTAINMENT AND BUSINESS MEAL

[illegible]

NUMBER OF DAYS AWAY FROM HOME

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FRO PERSONAL AFFAIRS

0

NATURE OR PURPOSE OF TRAVEL

Ft. Benning Employer Tour

METHOD OF REIMBURSEMENT

DEDUCT FROM M OR

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING, REPAIRS, TEC.	AMOUNT
10/16/2015	38 miles from Opelika, AL to Ft. Benning, GA	21.85
10/16/2015	38 miles from Ft. Benning, GA to Opelika, AL	21.85

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

SIGNATURE

APPROVED BY

NAME

Name Gary Fuller

DEPARTMENT

Department 5105

PERIOD ENDING

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN												0.0
MON												0.0
TUE												0.0
WED												0.0
THU												0.0
FRI												0.0
SAT 1/30/16	Las Vegas, NV		498.20									498.2
WEEKLY CATEGORY TOTALS \$		0.00	498.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	498.2

WEEKLY TOTAL EXPENSES 1

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PUPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

NUMBER OF DAYS AWAY FROM HOME

5

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

100%

NATURE OR PURPOSE OF TRAVEL

Attending World of Concrete Convention

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM MY ADVANCE
☒ MAIL TO

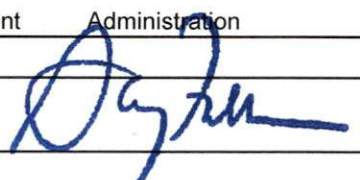
Employee

Gary Fuller

Department

Administration

SIGNATURE



APPROVED BY

NAME

Name Lisa McLeod

DEPARTMENT

Department Human Resources

PERIOD ENDING

10/23/2015

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOT.
			AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN												0
MON												0
TUE 10/20	Guntersville, AL								8.57			8
WED 10/21	Guntersville, AL											0
THU 10/22	Guntersville, AL							13.95				13
FRI 10/23	Guntersville, AL					61.81						61
SAT												0
WEEKLY CATEGORY TOTALS \$		0.00	0.00	0.00	0.00	61.81	0.00	13.95	8.57	0.00	0.00	84

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PUPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS

NUMBER OF DAYS AWAY FROM HOME

4

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0%

NATURE OR PURPOSE OF TRAVEL

AAPPA Conference in Guntersville, AL

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE

☒ MAIL TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT
10/22	Mileage to and from Guntersville minus 300 round trip auto allowance mileage = 107.5	61.81
	0.575	

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

Lisa McLeod

Human Resources

SIGNATURE

APPROVED BY

RESOLUTION NO. 292-15

Designate City Personal Property Surplus and Authorize Disposal**RESOLUTION NO. _____**

WHEREAS, the City of Opelika, Alabama, has certain items of personal property which are no longer needed for public or municipal purposes; and

WHEREAS, Section 11-43-56 of the Alabama Code of 1975 authorizes the Municipal Governing body to dispose of unneeded personal property;

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

SECTION 1. That the following personal property owned by the City of Opelika, Alabama, is no longer needed for public or municipal purposes:

No.	Qty.	Unit	Item Description	Fixed Asset #
1.	5	Ea.	Logitech Keyboard	N/A
2.	1	Ea.	UPS	N/A
3.	1	Ea.	Microline 320 Turbo Printer	N/A
4.	1	Ea.	IBM Keyboard	N/A
5.	2	Ea.	Portable Desk Lamp	N/A

SECTION 2. That the Mayor is hereby authorized and directed to dispose of the personal property owned by the City of Opelika, Alabama, described in Section 1 above. If any such property has marketable value, the Mayor shall receive bids or quotations for such property and shall sell the same to the highest bidder. If the property has no marketable value, the Mayor may dispose of such property in the most economical and feasible manner available to him.

ADOPTED AND APPROVED this the _____ day of _____, 2015.

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

ATTEST:

Robert G. Shuman
City Clerk - Treasurer

RESOLUTION NO. 293-15

Purchase One (1) 2015 Peterbilt Model 320 Chassis with McNeilus Model 2849 Body - SW

RESOLUTION NO. _____

WHEREAS, the Solid Waste Department desires to purchase One (1) 2015 Peterbilt Model 320 Chassis with McNeilus Model 2849 Body with certain options utilizing the NJPA Coop Contract; and

WHEREAS, National Auto Fleet Group is the Contract Vendor for the One (1) 2015 Peterbilt Model 320 Chassis with McNeilus Model 2849 Body; and

WHEREAS, funding in the amount of \$35,000.00 will come from a trade in credit for unit #838, \$205,450.00 will come from Capital Outlay, and the balance of \$4,382.00 will come from the Solid Waste Maintenance fund;

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

1. That the purchase be awarded to National Auto Fleet Group utilizing the NJPA Coop Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to National Auto Fleet Group in the amount of \$209,832.00.
3. The Controller is authorized to adjust the budget as necessary for this purchase.
4. That Mayor Gary Fuller is hereby authorized to execute all documents pertaining to this purchase.

APPROVED AND ADOPTED this the ____ day of _____ 2015.

C. E. "Eddie" Smith, Jr.

President of the City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman

City Clerk - Treasurer



National Auto Fleet Group

A Division of Chevrolet of Watsonville

490 Auto Center Drive, Watsonville, CA 95076

(855) 289-6572 • (855) BUY-NJPA • (831) 480-8497 Fax

Fleet@NationalAutoFleetGroup.com

9/28/2015

Mr. David Turner

City of Opelika
204 South 7th Street
Opelika, AL 36803

Dear David Turner,

National Auto Fleet Group is pleased to quote the following vehicle(s) for your consideration.

One (1) New/Unused (Peterbilt Model 320 Chassis with McNeilus model 2849 Body)
delivered to your department yard by Mr. Anderson with Peterbilt and Mr. O'Mally with
McNeilus, each for

*Note the placement of the Tank lay out is generic and will be placed behind the RH fender

(1) One Unit

Chassis Only	\$	131,221.00
McNeilus Model 2849	\$	109,229.00
Trade in Credit	\$	(35,000.00)
Tax (0%)	\$	00.00

Total \$ 205,450.00

Optional:

PX9 Protection Plan (1) 5/150	\$ 2700.00
PX9 Aftertreatment Coverage 5/150	\$ 700.00
Allison Transmission Warranty 5year/Unlimited miles	\$ 982.00
-per the attached specifications.	

This vehicle(s) is available under the **National Joint Powers Alliance Bid Number 102811.**

Please reference this Bid Number on all Purchase Orders.

Thank you in advance for your consideration. Should you have any questions, please do not
hesitate to call.

Sincerely,

Jesse Cooper

National Fleet Manager

Office (855) 289-6572



RESOLUTION NO. 294-15

Engineering Funds for Erosion and Sediment Control Workshop

RESOLUTION NO. _____

**RESOLUTION APPROVING SPECIAL APPROPRIATION FOR
EROSION AND SEDIMENT CONTROL WORKSHOP**

WHEREAS, uncontrolled stormwater run-off from construction sites can significantly impact rivers, lakes and estuaries; and

WHEREAS, the City of Opelika, Alabama (the “City”) has implemented a program to reduce pollutants in stormwater run-off from construction sites; and

WHEREAS, the City desires to assist designers and construction site operators in the effective implementation of grading, erosion and sediment control practices; and

WHEREAS, the City has entered into a cooperative association with the City of Auburn, Lee County, the City of Smiths Station and Auburn University (collectively “ALOAS”) to promote effective drainage erosion and sediment control practices; and

WHEREAS, the members of ALOAS are sponsoring an erosion and sediment control workshop at Auburn University’s AG Heritage Barn on December 10, 2015; and

WHEREAS, the organizers of the workshop have requested a contribution in the amount of \$250.00 from the City to defray the cost of the workshop; and

WHEREAS, the City deems it beneficial for its residents and businesses to co-host the erosion and sediment control workshop; and

WHEREAS, the City Council finds and determines that said special appropriation will serve a public purpose.

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

1. That a special appropriation in the amount of \$250.00 to co-sponsor the ALOAS erosion and sediment control workshop is hereby approved.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to sponsor the workshop for the City's pro rata share of said cost.
3. That said special appropriation shall be paid from the 2015- 2016 Engineering Department Budget.
4. That the Controller shall make all appropriate accounting and budget entries to carry into effect the purpose of this Resolution.
5. This Resolution shall take effect immediately upon adoption.

APPROVED AND ADOPTED this the _____ day of _____, 2015.

C. E. 'Eddie' Smith, Jr.

President of the City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman

City Clerk - Treasurer



ALOAS

Erosion & Sediment Control Workshop

Event Details

- What** The City of **A**uburn, **L**ee County, City of **O**pelika, **A**uburn University, and **S**miths Station (ALOAS) would like to invite you our annual Erosion and Sediment Control Workshop. ALOAS is a citizen advisory committee that meets on a quarterly basis to discuss stormwater and watershed management related topics. ALOAS also serves as a public forum for citizen participation in the local governments efforts to protect, preserve, and restore our local water resources. This workshop is an opportunity for us to say thank you to our local design, engineering, development, and construction community for everything you do to help us achieve that mission. We hope that you enjoy the presentations and stop by the sponsors booths and/or demonstrations to say thank you.
- When** Thursday, December 10th, 2015 from 11:00-1:00
- Where** Ag Heritage Barn
- Cost** FREE — LUNCH PROVIDED

Event Registration

Name

Company

Phone

Email

Organization

-- select organization --



I am responding to an
invitation I received
from...

Register!

RESOLUTION NO. 295-15

Software License & Services Agreement, Supplement 6 & 7 - Five Inc.

RESOLUTION NO. _____

**RESOLUTION APPROVING SUPPLEMENT NOS. 6 AND 7
TO MASTER SOFTWARE LICENSE AND SERVICES AGREEMENT
DATED NOVEMBER 3, 2011 BETWEEN FIVE INCORPORATED
AND THE CITY OF OPELIKA, ALABAMA**

WHEREAS, the City of Opelika, Alabama (the “City”) and Five Incorporated entered into a Master Software License and Services Agreement dated November 3, 2011, and

WHEREAS, the City Council heretofore approved Supplements No. 1, 2, 3, 4 and 5 to the Master Software License and Services Agreement; and

WHEREAS, a proposed Supplement No. 6 to the Master Software License and Services Agreement has been prepared 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 Supplement No. 6; and

WHEREAS, said Supplement No. 6 provides for three (3) additional months of support and maintenance for the triple play services software package and the Custom Integration Points from Supplement No. 5; and

WHEREAS, a proposed Supplement No. 7 to the Master Software License and Services Agreement has been prepared 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 Supplement No. 7; and

WHEREAS, said Supplement No. 7 provides for the extension of Supplement No. 4 to the Master Software License and Services Agreement for an additional twelve (12) months;

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

1. That the proposed Supplement Nos. 6 and 7 to the Master Software and License Services Agreement dated November 3, 2011 between the City and Five Incorporated, copies of which are attached hereto as Exhibit “A” and “B” are 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 the execution and delivery of said Supplements.

2. That the Mayor and the City Clerk are hereby authorized and directed to execute and deliver said Supplement Nos. 6 and 7 and such other ancillary documents and certificates as may be necessary to carry into effect the purpose and intent of said Supplements and to carry out fully the transactions 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 and the attached Supplements.

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

ADOPTED AND APPROVED this the _____ day of _____, 2015.

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

ATTEST:

CITY CLERK

FACT SHEET

SUBJECT: Supplement No. 6 to Master Software License and Services Agreement with Five Inc. – Renew Software Maintenance Services for Triple Play Services Software for a 3 month period

FACTS:

- Master Software License and Services Agreement adopted and approved by Resolution # 248-11, November 3, 2011
- User department(s) – Opelika Power Services
- Current Purchase Order # 045220
- Increase of PO # 045220 amount for Supplement No. 6 – \$75,000.00
- Budgeted software maintenance costs – Funds coming from 2015-2016 budget

- Breakdown of costs:

Integrated Triple-play Back office System:

Base Software Module	\$36,103.20
Voice Service Module	\$ 2,863.20
CATV Service Module	\$ 2,863.20
Internet/Data Service Module	\$ 2,863.20
Integrated Flow-through Provisioning System	\$15,307.20

Existing, Custom Developed Integration Points to Include:

- Customer Web Portal to OSS/BSS & Official Payments Processing
- CrescentLink to GIS Platform and GIS to OSS/BSS
- EPB Provided Network Management Toolbox

Total Annual Maintenance and Support \$ 60,000.00 / 3 Month Period

- On-site training by Five Inc. is \$60 per hour by employees and \$90 per hour by sub-contractors .
- Requesting \$75,000.00 (excess amount of \$15,000.00) to cover any on-site training requested, travel expenses, and any needed additional development support for change orders requested by OPS.

RECOMMENDATION:

- **Recommend Supplement No. 6 be approved in the total amount Not to Exceed \$75,000.00 to FIVE, Inc.**

**SUPPLEMENT NO. 6
TO
MASTER SOFTWARE LICENSE AND SERVICES AGREEMENT
BY AND BETWEEN
Five, Incorporated ("Consultant")
and
CLIENT DESIGNATED BELOW AS
OF BELOW INDICATED DATE**

All terms used herein shall have the same meaning as in the Master Service Agreement.

Master Software License and Services Agreement ("Agreement")

Effective Date of Agreement: October 20, 2015

Client Name: The City of Opelika, Alabama d/b/a Opelika Power Services ("Client")

This Supplement simply extends the term of the original Supplement No. 3 AND No. 5 by 3 months, thru January 20, 2016. Added support components from Supplement No. 5. No other changes to this original document.

Professional Services

Annual Software Maintenance and Support Services

It shall be the responsibility of Consultant, or its designee, to:

Provide a Maintenance and Support services for the following:

Software OSSSFTMT-01

- Integrated Triple-play Back Office System
- Base Software Module
- Voice Service Module
- CATV (Video) Service Module
- Internet/Data Service Module
- Integrated Flow-thru Provisioning Module

Existing, Custom Developed Integration Points to Include:

- Customer Web Portal to OSS/BSS & Official Payments Processing
- CrescentLink to GIS Platform and GIS to OSS/BSS
- EPB Provided Network Management Toolbox

It shall be the responsibility of Client, or its designee, to provide Consultant with:

All requested documents and/or information in a timely manner.

A single point of contact for reporting user or system related technical support needs.

Maintenance Coverage:

During the term of this Agreement, Consultant agrees to provide maintenance and support services for the covered software operating at Client's site.

Consultant will provide the services described herein so as to maintain the covered software in good and working order, keeping it free from material defects so that the covered software shall function properly and in accordance with accepted levels of performance.

Consultant shall provide to OPS unlimited telephone and web collaboration support to resolve any error, defect, malfunction or non-conformity during the hours of 8:00 a.m. – 5:00 p.m. CST Monday through Friday. Telephone support service shall include telephone and research time performed by Consultant's technical staff necessary to resolve the issue as reported. Five Inc will "provide continuous, 24/7 maintenance support for all issues affecting mission critical functionality reported prior to the close of the stated support period.

With respect to a report of any malfunction, OPS personnel making such a report will describe to the Consultant's technical staff the malfunction in reasonable detail and the circumstances under which the malfunction occurred or is occurring and will, with the assistance of the Consultant's technical staff members, determine the operational impact on the Client. The Consultant will use all reasonable means to resolve the reported malfunction by the close of business on the following business day.

Specific Exclusions from Coverage:

With respect to the maintenance and support provided under this agreement, the following items are specifically excluded and will be billed to Client at an hourly rate of \$160/hour inclusive of research, development and project management requirements.

Errors or Failure Caused by Client – In the event of any error, failure or corruption of data caused by Client's use of the system in a manner not intended, Client agrees to compensate Consultant for the correction/resolution of issues. Consultant agrees to use all reasonable means to resolve the issue in a timely manner.

Development Support for Third Party Interfaces – During the normal course of business, it is common for third party providers of element management systems to make changes, upgrades, and modifications to their product. In the event such

events occur, Client agrees to provide Consultant reasonable notice of such change, but in no event less than 45 business days, in order to address the impact of such changes. Modifications to the Consultant's product that are dictated by a third party will be billed to Client at the above stated hourly rate.

Other Terms and Conditions:

The Agreement shall terminate in the event of a termination of the Master Service Agreement between Consultant and Client.

All payments hereunder shall be due Consultant by Client per annual invoice and shall be based on the following:

OSSSFTMT-01

Integrated Triple-play Back office System:

- | | |
|---|-------------|
| ○ Base Software Module | \$36,103.20 |
| ○ Voice Service Module | \$ 2,863.20 |
| ○ CATV Service Module | \$ 2,863.20 |
| ○ Internet/Data Service Module | \$ 2,863.20 |
| ○ Integrated Flow-through Provisioning System | \$15,307.20 |

Existing, Custom Developed Integration Points to Include:

- Customer Web Portal to OSS/BSS & Official Payments Processing
- CrescentLink to GIS Platform and GIS to OSS/BSS
- EPB Provided Network Management Toolbox

Total Annual Maintenance and Support	\$60,000.00 / 3 Month Period
--------------------------------------	------------------------------

Reimbursement of Travel Expenditures:

In the event the Client requests or agrees to on-site access by the Consultant's technical staff, the Client agrees to pay all travel expenses as per the MSA.

In the event the Client requests additional user training during the term covered by this agreement, such training will be provided at a rate of \$60.00 per hour for employees of Five Inc. and a rate of \$90.00 per hour for subcontractors of Five Inc., inclusive of travel time if onsite is requested, and reimbursement of travel expenses will apply as outlined per the MSA.

All terms used herein shall have the same meaning as the Master Software License and Services Agreement.

Master Software License and Services Agreement ("Agreement") Resolution _____

Effective Date of Agreement: October 21, 2014

Client Name: The City of Opelika, Alabama ("Client")

Engagement Date: October 20, 2015

Date of Supplement: October 20, 2016

Engagement Term: 3 Months

AGREED AND ACCEPTED:

Five Incorporated

The City of Opelika, Alabama
d/b/a Opelika Power Services

By: _____
(Authorized Signature)

By: _____
(Authorized Signature)

Name: Alan D. Ellison

Name: _____

Title: President/CEO

Title: _____
(Type or Print)

Date: _____

Date: _____

FACT SHEET

SUBJECT: Supplement No. 7 to Master Software License and Services Agreement with Five Inc. Extend the term of Supplement No. 4 by 12 months (thru October 2016)

FACTS:

- Master Software License and Services Agreement adopted and approved by Resolution # 248-11, November 3, 2011
- Supplement 4 was approved by Resolution 284-14
- User department(s) – Opelika Power Services
- Current Open Purchase Order PO # 045220
- Increase of PO# 045220 amount for Supplement 7 – \$0.00 as the monies were carried over from 2014-2015 budget
- Budgeted software integration – Funds coming from 2013-2014
 - **Systems/Items Included in this supplement:**
- Integration of Tantalus AMR into the OSS/BSS
- Alarms and Notifications from Network Elements
- OPS Unified Customer Login Management and Maintenance
- OPS Website Integration and Customer Portal
- Integration of Outage Management to Milsoft Dispatch
- Integration of OSS/BSS to NEUSTAR ESR platform
- Integration of the Adtran element management system (EMS)

RECOMMENDATION:

- **Recommend Supplement No. 7 be approved for an extended term of 12 months thru October 2016 to FIVE, Inc.**

**SUPPLEMENT NO. 7
TO
MASTER SERVICE AGREEMENT
BY AND BETWEEN
Five Incorporated ("Consultant")
and
CLIENT DESIGNATED BELOW AS
OF BELOW INDICATED DATE**

All terms used herein shall have the same meaning as in the Master Service Agreement.

Master Software and License Service Agreement ("Agreement") Resolution 248-11

Effective Date of Agreement: November 1, 2011

Client Name: City of Opelika, AL ("Client")

This Supplement simply extends the term of the original Supplement 4 by 12 months, thru October 21, 2016. No other changes to this original document.

Professional Services

1. Integration of Tantalus AMR into the OSS/BSS
This integration involves the connecting and pulling the respective electric meter data from the Tantalus System using MultiSpeak methodology. All relevant meter data will be pulled into the OPS Automated Meter Management Module for billing, outages and analytics.
2. Alarms and Notifications from Network Elements
The module will connect to the Triple Play network elements for Internet, Phone and Video as well as the Tantalus AMR system for power outages and voltage alarms. All warnings, errors and outages (fiber and electric)- will be logged and the appropriate OPS personnel notified via email or text message. An Outage Map will be displayed in the OPS Network Operations Center and can be displayed via a web browser remotely.
3. OPS Unified Customer Login Management and Maintenance
As OPS deploys more and more functionality to the customers, the current tools each require their own specific login for management by the customer. Currently, this is the case for: OSS/BSS Payment Portal, Email in IceWarp email, Voicemail in MetaSwitch, THE, Official Payments, MediaRoom DVR, etc. This integrated module will create a single login which will have access to all of the defined elements that a user can have access to, as well as the security and rights that the user has to the particular element.
4. OPS Website Integration and Customer Portal
The integration will provide the website with all the information available in OSS/BSS that is to be formatted and displayed on the OPS website. This integration will enable the selection of services and pricing as authorized by OPS for customers to select. For new customers, it will allow the sign up for services and selection of options for these services which we be reviewed and finalized by Customer Service. For existing customers, the portal will allow certain changes to services such as: internet speed, premium channel selection, adding an email address, modifying voice mail settings, etc. and will record and pass these updates through OSS/ BSS as soon as the customer completes the change.

5. Integration of Outage Management to Milsoft Dispatch.
This integration will tie the Outage Alarms and Notification System to the Milsoft Dispatch software for managing electric and fiber outages. This integration will use the MultiSpeak method for both the fiber and the electric service. The dispatch system will create the work orders for the power restoration and will receive constant updates from the Outage Management System as to what locations are still without power and/or fiber and those that have been restored. These constant updates will be transmitted to the truck in the field via a remote device to be determined.
6. Integration of OSS/BSS to NEUSTAR ESR platform
This integration will provide for two-way communication with the ESR platform provided by NEUSTAR and will support various provisioning functions including LEC and CLEC LSR services for directory listing, calling name, and number port requests. In addition, this integration will tie the number porting function directly to the OSS/BSS platform thereby eliminating the need for access the current NEUSTAR LSI interface.
7. Integration of the Adtran element management system (EMS).
This integration provides for the necessary communications between the OSS/BSS platform for purposes of alarming, display and notification of alarms and/or events. This integration will encompass communications between the Adtran EMS, Adtran network elements and OSS/BSS platform.

It shall be the responsibility of Project Manager and Integration Programmers to:

- Build the executable Project Plan for each of the initiatives.
- Program each of the Integration Modules
- Test each module and validate the working condition of the module.
- Integrate all of these modules with the BSS/OSS platform and maintain the BSS/OSS as the master source of information.
- Test and validate the Integration with the various other third parties involved in each of the pieces.
- Implement and train the integration.
- Provide budgets and estimates for: support, upgrades and further enhancements for the following 36 months.

It shall be the responsibility of Client, or its designee, to:

- Provide consultant with all requested documents and/or information in a timely manner.
- All contact information of individuals involved and their defined responsibilities.
- Make all relevant documents needing approval available to consultant via email or ftp site with two weeks notice of deadline.
- Define and Identify Server environment and location.
- Provide username/password(s) to connect to components at the start of the project.
- Provide required computer hardware should any be identified.
- Approve bi-weekly time sheets for the Integration Experts within 3 business days of submission by Consultant

- All efforts will be made to supply information to the consultant in a timely manner. Information requested from OPS will be provided within three business days and no later than a maximum of 7 days following a formal request.

Other Terms and Conditions:

The Agreement shall terminate in the event of a termination of the Master Service Agreement between Consultant and Client.

All payments hereunder shall be due Consultant by Client per monthly invoice and shall be based on the following:

- Monthly Processing Charges shall be calculated based on the hours dedicated to the project defined.
- Monthly Processing Charges are due no later than the 10th of each month.
- Travel and other expenses shall be paid in accordance with the Master Service Agreement

Hourly Rate:

Application Development & Program Management	\$90.00
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Term for Supplement:

12 months

<u>Maximum billable dollar amount:</u>	\$335,000.00
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Term for this Supplement may be extended with 30 day notice in writing to "Consultant" from "Client" in \$25,000 increments.

All terms used herein shall have the same meaning as in the Master Service Agreement.

Master Software and License Service Agreement ("Agreement") Resolution 248-11

Effective Date of Agreement: November 1, 2011

Client Name: City of Opelika, AL ("Client")

Engagement Date: October 20, 2015

Date of Supplement: October 20, 2016

Engagement Term: 12 Months

AGREED AND ACCEPTED:

Five Incorporated

The City of Opelika, Alabama

By: _____
(Authorized Signature)

By: _____
(Authorized Signature)

Title: CEO

Title: _____

Name: Alan D. Ellison

Name: _____
(Type or Print)

Date: _____

Date: _____

RESOLUTION NO. 296-15

Agreement, Annual Auditing Services - AC

RESOLUTION NO. _____

RESOLUTION APPROVING THE AUDIT ENGAGEMENT LETTER AND FEE AGREEMENT WITH HIMMELWRIGHT, HUGULEY & BOLES, LLC

WHEREAS, §11-43-85, *Code of Alabama* (1975) requires an annual audit of the City's financial records by certified public accountants; and

WHEREAS, the firm of Himmelwright, Huguley & Boles, LLC ("HH&B") has served as the City's auditors for a number of years; and

WHEREAS, HH&B is qualified and capable of providing audit services for the City; and

WHEREAS, HH&B has presented to the City an Audit Engagement Letter and Fee Agreement for the fiscal years ending September 30, 2015, 2016 and 2017; and

WHEREAS, the City Council has determined that, pursuant to §11-43-85, *Code of Alabama* (1975), it is in the public interest and necessity to enter into an Audit Engagement Letter and Fee Agreement with HH&B.

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

Section 1. The City Council hereby finds and determines that the above recitals are true and correct.

Section 2. The City Council hereby approves the Audit Engagement Letter and Fee Agreement (collectively the "Agreement") with HH&B, in substantially the same form as the

copy which is attached hereto as Exhibit "A".

Section 3. The Mayor is hereby authorized and directed to execute and deliver said Agreement in the name and on behalf of the City.

Section 4. The City Council hereby directs the City Clerk to send one (1) executed Agreement to HH&B.

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

ADOPTED AND APPROVED this the _____ day of _____, 2015.

 PRESIDENT OF THE CITY COUNCIL
 OF THE CITY OF OPELIKA

ATTEST:

 CITY CLERK

RESOLUTION NO. 297-15

Annual Appropriation Contract, Chamber of Commerce.**RESOLUTION NO. _____**

BE IT RESOLVED by the City Council of the City of Opelika as follows:

) That the proposed CONTRACT FOR SERVICES to be entered into between the City

of Opelika and the Opelika Chamber of Commerce, a copy of which is hereto attached as

Exhibit "A", be and the same is hereby approved, adopted, authorized, ratified and confirmed,

) That Gary Fuller, Mayor of the City of Opelika is hereby authorized and

empowered to execute the foregoing agreement in the name and on behalf of the City of Opelika

and the City Clerk is hereby authorized to affix the corporate seal of the City of Opelika thereto

and to attest the same, and the Mayor shall deliver one copy to the Opelika Chamber of

Commerce, and retain one copy.

ADOPTED and APPROVED this the _____ day of _____, 2015.

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

Attest:

Robert G. Shuman, CMC
City Clerk - Treasurer

**STATE OF ALABAMA
LEE COUNTY**

**CONTRACT FOR SERVICES BETWEEN THE CITY OF OPELIKA AND
THE OPELIKA CHAMBER OF COMMERCE, INC.**

THIS CONTRACT made and entered into by and between the City of Opelika, Alabama, a municipal corporation, herein after referred to as "City", and the Opelika Chamber of Commerce, Inc., a Non-Profit Corporation, hereinafter referred to as "Chamber", as of this _____ day of _____, 2015

In consideration of the agreements herein contained, the parties agree as follows:

The term of the agreement shall be for a period of one (1) year commencing October 1, 2015 and ending September 30, 2016. At the end of each year this contract may be renewed by mutual agreement between parties.

1. The Chamber agrees to provide the City with the following services:
 - (A) Provide an organizational framework in which local leaders can act, respond, or participate in programs and activities which will advance the economic well-being of the entire Opelika community. The areas involved would include, but are not limited to industry, commercial/retail establishments, service/professional firms, education, agriculture, cultural arts, workforce development, business advocacy, and many other components involved in community growth and progress.
 - (B) Assist the City Economic Development Department in the gathering and updating of economic and community research and distribute information and data requested by commercial and business prospects and individuals interested in moving to our community.
 - (C) Provide support training, counseling, and other services required for local businesses of all types to establish, expand and prosper for the mutual benefit of the City and said businesses.
 - (D) Assist new or expanding businesses, agencies and institutions, and people moving into the area as requested.
 - (E) Assist the Mayor and Community Relations Department in providing public information regarding the City to all people who are referred by the City or who otherwise come into the area, regarding medical services, churches, climatic conditions (geographical, business and social), laws and statutes, courts, local community and governmental services, economics, taxes, and licenses.
 - (F) Receive, study, and respond to or answer all mail and inquiries which are directly or otherwise sent to the City by potential visitors, business and professional people, school children, research and survey agencies and the

myriad of outside sources and individuals seeking information about the community, its people, government, history, economical base, institution, professions, state and federal agencies, schools and educational institutions, housing and employment opportunities, legal professions, medical services, churches, climate (geographical, community, and governmental), services, taxes and licenses..

- (G) Develop and secure maps, charts, photos, brochures, etc. about Opelika for extensive distribution.
 - (H) Manage, plan, conduct, and publicize ribbon-cuttings for new businesses.
 - (I) Work with existing industry to address issues related to their expansion and retention, and the overall business climate of Opelika, for the benefit of the City.
 - (J) Through the management and staff of the Chamber, as well as volunteers from local leadership, to do everything possible to foster and promote the City of Opelika, and to create and maintain its goodwill.
3. As compensation for services rendered hereunder, the City agrees to pay or provide funds with which to pay the Chamber for a term of one (1) year commencing October 1, 2015, the sum of Sixty Thousand (\$60,000) Dollars (U.S.), payable in equal monthly installments on the 15th day of each month during said annual term commencing October 1, 2015.
 4. Notwithstanding any of the provisions of this agreement, it is agreed that the City has no financial responsibility in the business of the Chamber, and shall not be deemed liable for any debts or obligations incurred by the Chamber nor shall the City be construed to be a partner, joint-venturer, or otherwise interested in or with any of the indebtedness incurred by the Board in the assets of the Chamber, or profits earned or derived by the Chamber, nor shall the Chamber at any time or times use the name of the City in purchasing or attempting to purchase any equipment, supplies, or other items whatsoever.
 5. The Chamber, in the performance of its operations and obligation hereunder shall not be deemed to be the agent of the City, but shall be deemed to be an independent contractor in every respect and shall take all steps at its own expense as the City may from time to time request to indicate that it is an independent contractor. The City does not and will not assume any responsibility for the means in which or manner in which services by the Chamber, provided for herein, are performed, but on the contrary, the Chamber shall be wholly responsible therefore.
 6. The Chamber shall not transfer or assign this agreement or the license of any of the rights or privileges granted herein without the prior written consent of the City.
 7. The Chamber agrees that if upon violation of any of the covenants and agreements herein contained, on account of any act of omission or commission of the Chamber, the City may at its option terminate and cancel this agreement .

8. The Chamber agrees that it shall not use any of the funds received from the City for political activity, nor shall it endorse or promote the campaign of any person for public office. Prohibited political activities shall include:
- (a) Use of its influence for the purpose of interfering with or affecting the result of elections or nominations for office.
 - (b) Use of influence for the purpose of interfering with or affecting the results of partisan referendums.
 - (c) Lobbying in support of, or otherwise promoting partisan legislation, except that nothing herein shall prohibit the Chamber from attempting to secure legislation solely to advance commercial and industrial development of the City of Opelika and the State of Alabama.
9. This agreement supercedes all other agreements, either oral or in writing, between the parties with respect to the subject matter of this agreement which is not contained herein shall be valid or binding unless in writing and signed by both parties.
10. Subject to the provisions regarding assignment, this agreement shall be binding on the successors and assigns of the respective parties.
11. The validity of this agreement and of its terms, provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Alabama.

WITNESS OUR HANDS AND SEALS THIS THE ____ DAY OF _____, 2015.

THE CITY OF OPELIKA, ALABAMA

BY _____
ITS MAYOR

(SEAL)
ATTEST:

ITS CITY CLERK

THE OPELIKA CHAMBER OF COMMERCE
A NON-PROFIT CORPORATION

BY: *Burt Mice*
ITS CHAIRMAN, BOARD OF DIRECTORS

ATTEST:

ITS PRESIDENT

RESOLUTION NO. 298-15

Annual Appropriation Contract, J. W. Darden.**RESOLUTION NO. _____****BE IT RESOLVED** by the City Council of the City of Opelika as follows:

) That the proposed CONTRACT FOR SERVICES to be entered into between the City of Opelika and the J. W. Darden Foundation Inc., a copy of which is hereto attached as Exhibit

“A”, be and the same is hereby approved, adopted, authorized, ratified and confirmed,

) That Gary Fuller, Mayor of the City of Opelika is hereby authorized and empowered to execute the foregoing agreement in the name and on behalf of the City of Opelika and the City Clerk is hereby authorized to affix the corporate seal of the City of Opelika thereto and to attest the same, and the Mayor shall deliver one copy to the J. W. Darden Foundation Inc., and retain one copy.

ADOPTED and APPROVED this the _____ day of _____, 2015.

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

Attest:

Robert G. Shuman, CMC
City Clerk - Treasurer

STATE OF ALABAMA
LEE COUNTY

CONTRACT FOR SERVICES BETWEEN THE CITY OF OPELIKA
AND THE J. W. DARDEN FOUNDATION, INC.

THE CONTRACT made and entered into by and between the City of Opelika, Alabama, a municipal corporation, herein after referred to as "City", and the J. W. Darden Foundation, Inc., a non-profit corporation, herein after referred to as the "Darden Foundation", as of this ____ day of _____, 2015

In consideration of the agreements herein contained, the parties agree as follows:

1. The term of the agreement shall be for a period of one (1) year commencing October 1, 2015 and ending September 30, 2016. At the end of each year this contract may be renewed by mutual agreement between parties.
2. The Darden Foundation agrees to provide the city with the following services:
 - a. Provide an organization through which the beautiful, historical home and the legacy of Dr. and Mrs. J. W. Darden can be preserved and maintained for the citizens of Opelika.
 - b. As a non-profit foundation and in keeping with the legacy of Dr. J. W. Darden, the first African American Physician in Opelika, provide the facility for a Wellness Clinic that is operational, at this time, under the supervision of the EAMC Parish Nurse Program and the Auburn University School of Nursing and is open once a week for health screenings and health monitoring.
 - c. As a non-profit, provide the facility and facilitate the programming for health education programs through the Parish Nurses and area physicians and thereby promote healthy life styles with the attempt to decrease health care costs in our community.
 - d. As a non-profit, maintain referral services for the people using the screening services..
 - e. As a non-profit, promote and instill the social graces and leadership characteristics in young people that were exemplified by Dr. and Mrs. J. W. Darden.
 - f. As a non-profit foundation, provide an organizational framework to assist donors in achieving their philanthropic goals directed toward the accomplishment of the Darden Foundation's mission and its goals.

3. As compensation for services rendered hereunder, the City agrees to pay or provide funds with which to pay the Darden Foundation for a term of one (1) year commencing October 1, 2015, the sum of five thousand (\$5,000) dollars (U.S.), payable in equal quarterly installments on or before the 10th day of the month in the months of December, March, June, and September.
4. Notwithstanding any of the provision of this agreement, it is agreed that the City has no financial responsibility in the business of the Darden Foundation, and shall not be deemed liable for any debts or obligations incurred by the Darden Foundation nor shall the City be construed to be a partner, joint venture, or otherwise interested in or with any of the indebtedness incurred by the Board in the assets of the Darden Foundation nor shall the Darden Foundation at any time or times use the name of the City in purchasing or attempting to purchase any equipment, supplies, or other items whatsoever.
5. The Darden Foundation, in the performance of its operations and obligation hereunder shall not be deemed to be the agent of the City, but shall be deemed to be an independent contractor in every respect and shall take steps at its own expense as the City may from time to time request to indicate that it is an independent contractor. The city does not and will not assume any responsibility for the means in which or manner in which services by the Darden Foundation, provided for herein, are performed, but on the contrary, the Darden Foundation shall be wholly responsible.
6. The Darden Foundation shall not transfer or assign this agreement or license of any of the rights or privileges granted herein without the prior written consent of the City.
7. The Darden Foundation agrees that upon violation of any of the covenants and agreements herein contained, on account of any act of omission or commission of the Darden Foundation, the City may at its option terminate and cancel this agreement.
8. The Darden Foundation agrees that it shall not use any of the funds received from the City for political activity, nor shall it endorse or promote the campaign of any person for public office. Prohibited political activities include:
 - a. Use of its influence for the purpose of interfering with or affecting the result of election or nomination for office.
 - b. Use of influence for the purpose of interfering with or affecting the results of partisan referendums.
 - c. Lobbying in support of, or otherwise promoting partisan legislation, except that nothing herein shall prohibit the Darden Foundation from attempting to secure

legislation solely to advance commercial and industrial development of the City of Opelika and the State of Alabama.

9. This agreement supersedes all other agreements, either oral or in writing, between the parties with respect to the subject matter of this agreement.

10. Subject to the provisions regarding assignment, this agreement shall be binding on the successors and assigns of the respective parties.

11. The validity of this agreement and of its terms, provision, as well as the rights and duties of parties hereunder, shall be governed by the laws of the State of Alabama.

WITNESS OUR HANDS AND SEALS THIS THE ____ DAY OF _____, 2015

THE CITY OF OPELIKA

BY _____
ITS MAYOR

THE J.W. DARDEN FOUNDATION, INC.,
A NON-PROFIT CORPORATION

BY *H. George Allen*
ITS CHAIRPERSON, BOARD OF DIRECTORS

ATTEST:

Barbara H. Peller
ITS TREASURER

Attachment: CM 11-03-15, agency contract, JW Darden. (298-15 : Annual Appropriation Contract, J. W. Darden.)

RESOLUTION NO. 299-15

Annual Appropriation Contract, Opelika Main Street.**RESOLUTION NO. _____**

BE IT RESOLVED by the City Council of the City of Opelika as follows:

) That the proposed CONTRACT FOR SERVICES to be entered into between the City

of Opelika and the Opelika Main Street, Inc., a copy of which is hereto attached as

Exhibit "A", be and the same is hereby approved, adopted, authorized, ratified and confirmed,

) That Gary Fuller, Mayor of the City of Opelika is hereby authorized and

empowered to execute the foregoing agreement in the name and on behalf of the City of Opelika

and the City Clerk is hereby authorized to affix the corporate seal of the City of Opelika thereto

and to attest the same, and the Mayor shall deliver one copy to the Opelika Main Street, Inc., and

retain one copy.

ADOPTED and APPROVED this the _____ day of _____, 2015.

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

Attest:

Robert G. Shuman, CMC
City Clerk - Treasurer

STATE OF ALABAMA – LEE COUNTY
CONTRACT FOR SERVICES
 (Fiscal year 2015-2016)

This contract is made and entered into by and between the City of Opelika, Alabama, a municipal corporation, hereinafter referred to as the “City”, and Opelika Main Street, Inc., a non-profit corporation, hereinafter referred to as “Main Street”, on this the 15th day of October 2015.

In consideration of the agreements herein contained, the parties agree as follows:

1. The term of this agreement shall be for a period of one (1) year commencing October 1, 2015 and ending September 30, 2016. At the end of each year this contract may be renewed by mutual agreement between the parties.
2. Main Street agrees to provide the City with the following services:
 - a. Promote and maintain an attractive downtown image for Opelika.
 - b. Support and maintain active downtown commerce in Opelika.
 - c. Promote and maintain the heritage and character of downtown Opelika.
 - d. Coordinate and work closely with other agencies to make downtown Opelika easily and safely accessible.
 - e. Conduct or assist with special events downtown; On The Tracks Food and Wine Festival (October and April), Main Street Farmers Market, May Noon Tunes, First Fridays, Think Pink Breast Cancer Walk, Christmas Open House and Christmas in a Railroad Town.
 - f. Work with the Opelika Historic Preservation Society, Auburn-Opelika Tourism Bureau, the North Opelika Historic Neighborhood Association, and the Museum of East Alabama, to promote and encourage Walking and Driving Tours of Opelika’s Historic Districts and package group tours when requested.
 - g. Continue working with downtown property and business owners to encourage building improvements using the Main Street Facade program when required.
3. As compensation for the services rendered hereunder, the City agrees to pay Main Street for a term of one (1) year commencing October 1, 2015, to the sum of \$20,600.00, payable in equal installments of \$5150.00 on the following dates: December 10, 2015, March 10, 2016, June 10, 2016, September 10, 2016.
4. Notwithstanding any of the provisions of this agreement, it is agreed that the City has no financial interest in the business of Main Street, and shall not be liable for any debts or obligations incurred by Main Street, nor shall the City be deemed or construed to be a partner, joint venture, or otherwise interested in the asset of Main Street, nor shall Main Street at any time use the name or credit of the City in purchasing or attempting to purchase any equipment, supplies or other things whatsoever.
5. Main Street in the performance of its operations and obligations hereunder shall not be deemed to be the agent of the city but shall be deemed to be an independent contractor in every respect and shall take all steps at its own expense. The City does not and will not assume any responsibility for the means by which or manner in which services by Main Street, provided for herein, are performed, but on the contrary, Main Street shall be wholly responsible therefore.
6. Main Street shall not transfer or assign this agreement or license any of the rights or privileges granted herein without prior written consent of the City.
7. Main Street agrees to comply with all local, state and federal laws while performing under the terms of this agreement.

Contract For Services – Between the City of Opelika and Opelika Main Street, Inc. (Fiscal year 2015-2016)

8. Main Street agrees that upon violation on any of the covenants and the agreements herein contained, on account of any act of omission or commission of Main Street, the City may, at its option, terminate and cancel this agreement.
9. Main Street agrees that it shall not use any funds received from the City for political activity nor shall it endorse or promote the campaign of any person for political office.
10. This agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this agreement which is not contained herein shall be valid or binding unless in writing signed by both parties.
11. Subject to the provisions regarding assignment, this agreement shall be binding on the successors and assigns of the respective parties.
12. The laws of the State of Alabama hereunder, shall govern the validity of this agreement and of any of its terms, provisions, as well as the rights and duties of the parties.

CITY OF OPELIKA, ALABAMA

By: _____
It's Mayor: Gary Fuller

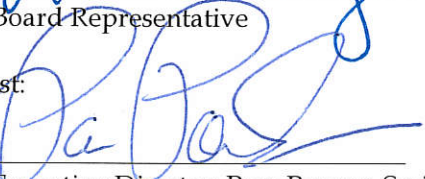
Attest:

It's City Clerk: R. G. "Bob" Shuman

**OPELIKA MAIN STREET, INC.
A Non-Profit Corporation**

By: 
It's Board Representative

Attest:


It's Executive Director: Pam Powers-Smith

RESOLUTION NO. 300-15

Annual Appropriation Contract, Storybook Farm.**RESOLUTION NO. _____****BE IT RESOLVED** by the City Council of the City of Opelika as follows:

) That the proposed CONTRACT FOR SERVICES to be entered into between the City of Opelika and Storybook Farm, a copy of which is hereto attached as Exhibit "A", be and the same is hereby approved, adopted, authorized, ratified and confirmed,

) That Gary Fuller, Mayor of the City of Opelika is hereby authorized and empowered to execute the foregoing agreement in the name and on behalf of the City of Opelika and the City Clerk is hereby authorized to affix the corporate seal of the City of Opelika thereto and to attest the same, and the Mayor shall deliver one copy to Storybook Farm, and retain one copy.

ADOPTED and APPROVED this the _____ day of _____, 2015.

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

Attest:

Robert G. Shuman, CMC
City Clerk - Treasurer

THIS AGREEMENT is made and entered into between the City of Opelika, Alabama a municipal corporation, hereinafter referred to as the "CITY", and the Storybook Farm, a 501(c)(3) charitable corporation, hereinafter referred to as the "Farm", on this the 23 day of October, 2015.

In consideration of the agreements herein contained, the parties agree as follows:

1. The term of this agreement shall be for a period of twelve (12) months commencing on the 1st day of October, 2015 and ending the 30th day of September, 2016.
2. During the term of this contract, the Farm agrees to provide, at no cost to the participants, therapeutic horseback riding and creative activities to children from the Opelika community with life threatening illnesses, chronic diseases, disabilities and children who have suffered a loss.
3. As compensation for the services rendered hereunder, the City agrees to pay to the Farm for the term of this agreement the sum of ~~\$8,000.00~~ payable on a quarterly basis. \$ 4,000 (DHL)
4. In the performance of its obligation hereunder, the Farm shall not promote the beliefs of any religious sect or denomination or engage in impermissible religious activities under the First Amendment of the United States Constitution. All programs shall be open to qualifying participants regardless of race, national origin, gender or religious affiliation.
5. The Farm agrees to comply with all local, state and federal laws while performing under the terms of this Contract.
6. The Farm agrees that it will not use any funds received from the City for political activities nor shall it endorse or promote the campaign of any person for political office.
7. The Farm in the performance of its operations and obligations hereunder shall not be deemed to be an agent of the City, but shall be deemed to be an independent contractor in every respect. The City does not and will not assume any responsibility for the means by which or manner in which the services by the Farm are performed, but on the contrary, the Farm shall be wholly responsible for the payment of its operating expenses, which includes, but not limited to, payroll expenses, taxes, maintenance expenses, supplies, utility charges, insurance premiums and governmental license fees.
8. The Farm agrees that upon the violation of any of the covenants and agreements herein contained, the City may, at its option, terminate and cancel this agreement.
9. The Farm shall not transfer or assign this contract or license any of the rights or privileges granted herein without the prior written consent of the City.
10. This contract supersedes any and all other agreements, either oral or written, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this contract which is not contained herein shall be valid or binding unless in writing signed by the parties.
11. Subject to the provisions regarding assignment, this contract shall be binding

their seals, this the _____ day of _____, 20_____.

13.10.a

CITY OF OPELIKA, ALABAMA
A municipal corporation

BY: _____
Gary Fuller
Mayor

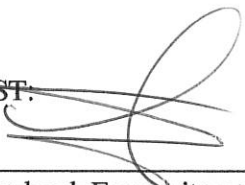
ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer

STORYBOOK FARM, Inc.
An Alabama non-profit corporation

BY: Denate Little
Executive Director

ATTEST:



Storybook Farm witness

Wade McKinney
Community Relations

Attachment: CM 11-03-15, agency contract, Storybook Farms. (300-15 : Annual Appropriation Contract, Storybook Farm.)

RESOLUTION NO. 301-15

Authorization of GO Warrants, Series 2015 & 2016.

RESOLUTION NO. _____

BE IT RESOLVED by the City Council of the City of Opelika (the "City") as follows:

Section 1. Findings. The City Council has ascertained and does hereby find and declare as follows:

(a) in order to take advantage of certain interest cost savings that may be available given present market conditions, it may be necessary for the City to issue its General Obligation Warrants, Series 2015 and its General Obligation Warrants, Series 2016 (collectively the "Warrants") to advance refund and redeem certain outstanding Revenue Bonds, Series 2007 issued by The Public Park and Recreation Board of the City of Opelika; and

(b) it will be necessary for the City to enter into Warrant Purchase Contracts (the "Purchase Contracts") with Stifel Nicolaus & Company, Incorporated (the "Underwriter") for each series of Warrants prior to the dates on which the issuance and delivery of the respective Warrants will be approved by the City.

Section 2. Authorization to Market Warrants. The Underwriter is authorized to market each series of the Warrants upon direction from the Mayor and the City's financial advisor, Public Financial Management, Inc. ("PFM"), at such time as PFM directs is in the best financial interest of the City.

Section 3. Authorization and Execution of Purchase Contract. The City hereby directs any one of the Mayor, the Council President or the City Clerk to execute Purchase Contracts between the City and the Underwriter for each series of Warrants. The final form of each Purchase Contract shall be subject to ratification and approval by the City at such time as the City adopts an ordinance authorizing the issuance and delivery of each series of Warrants.

Passed and adopted this _____ day of _____, 2015.

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

CITY SEAL

Attest: _____
City Clerk

RESOLUTION NO. 302-15

Agreement, PBM Services & Membership with Magellan Rx Management, Inc.

RESOLUTION NO. _____

**RESOLUTION APPROVING AGREEMENT FOR PBM
SERVICES AND MEMBERSHIP ASSOCIATE AGREEMENT
WITH MAGELLAN Rx MANAGEMENT, INC.**

WHEREAS, pursuant to Resolution No. 262-11, the City of Opelika, Alabama (the “City”) accepted a proposal from Partners Rx to provide a specialized pharmacy management program for the City; and

WHEREAS, Magellan Health Services, Inc., (“Magellan”) has completed its acquisition of Partners Rx; and

WHEREAS, Magellan is a leading specialty healthcare management organization with expertise in managing pharmacy benefits programs; and

WHEREAS, Magellan is willing to manage the City’s pharmacy benefits program; and

WHEREAS, Magellan requires the City to enter into written agreements for its services; and

WHEREAS, the City desires to contract with Magellan for pharmacy benefits management services; and

WHEREAS, HIPPA rules require the City and Magellan to enter into a “business associate agreement” to comply with applicable sections with the HIPPA rules; and

WHEREAS, the following agreements have been prepared and submitted to the Council

for approval:

1. Direct Plan Sponsor Agreement for PBM Services
2. Business Associate Agreement; and

WHEREAS, the Council has determined that it is now in the best interest of the City and its citizens to approve said agreements.

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

1. That the proposed Direct Plan Sponsor Agreement for PBM Services, attached hereto and marked Exhibit “A” and the Business Associate Agreement, attached hereto and marked Exhibit “B” (collectively the “Agreements”), are 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 the execution and delivery of said Agreements.

2. That the Mayor is hereby authorized and directed to execute and deliver said Agreements in the name and on behalf of the City and such other ancillary documents and certificates as may be necessary to effect the purpose and intent of said Agreements and to carry out fully the actions 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 and the attached Agreements.

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

ADOPTED AND APPROVED this the _____ day of _____, 2015.

PRESIDENT OF THE CITY COUNCIL
OF THE CITY OF OPELIKA

ATTEST:

CITY CLERK

BUSINESS ASSOCIATE AGREEMENT

Magellan Rx Management, Inc. ("MRX"), and MRX's Client or one of its affiliates ("Sponsor"), are parties to an agreement ("PBM Agreement") whereby MRX provides certain pharmacy benefit management services to the Sponsor's prescription drug plan (Sponsor and Sponsor's prescription drug plan collectively referred to hereinafter as "Plan"). The PBM Agreement addresses the parties' rights and obligations concerning the use and disclosure of patients' protected health information. The HIPAA Rules (as defined below) require MRX and the Plan to enter into a "business associate agreement" to comply with applicable sections of the HIPAA Rules as of the applicable Compliance Dates.

1. Definitions.

(a) "Breach" shall mean the unauthorized acquisition, access, use, or disclosure of Protected Health Information that compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information. "Breach" shall not include:

- (i) any unintentional acquisition, access, or use of PHI by an employee or individual acting under the authority of Plan or MRX, as long as such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual with Plan or MRX and such information is not further acquired, accessed, used, or disclosed by any person; or
- (ii) an inadvertent disclosure from an individual who is otherwise authorized to access PHI at a facility operated by Plan or MRX to another similarly situated individual at the same facility, provided that any such information received as a result of such disclosure is not further acquired, accessed, used, or disclosed by any person.

(b) "Compliance Date(s)" shall mean the date established by HHS or the United States Congress for effective date of applicability and enforceability of the HIPAA Rules and HITECH Standards.

(c) "Designated Record Set" shall mean a group of records maintained by or for Plan that is (i) the medical records and billing records about individuals maintained by or for Plan, (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for Plan to make decisions about individuals.

(d) "Electronic Health Record" shall mean an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

(e) "Electronic PHI" shall have the same meaning as the term "electronic protected health information" in 45 C.F.R. §160.103.

(f) "Health Plan" or "Plan" shall have the same meaning as the term "Health Plan" in 45 C.F.R. §160.103.

(g) "HIPAA Rules" means the collective privacy, transaction and code sets, and security regulations promulgated pursuant to the Health Insurance Portability and Accountability Act, as codified at 45 C.F.R. Parts 160, 162 & 164.

(h) "HITECH Standards" means the privacy, security and security Breach notification provisions applicable to a Business Associate under Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH"), which is Title XIII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and any regulations promulgated thereunder.

(i) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

(j) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by MRX from or on behalf of Plan.

(k) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subpart A and Subpart E, as they exist now or as they may be amended.

(l) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. §164.103.

(m) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

(n) "Security Incident" shall have the same meaning as "security incident" in 45 C.F.R. § 164.304.

(o) "Security Standards" shall mean the Security Standards, 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subpart A and Subpart C, to be effective no later than April 20, 2005, as they exist now or as they may be amended.

(p) "Transactions Standards" shall mean the Standards for Electronic Transactions, 45 C.F.R. Parts 160 and 162, as they exist now or as they may be amended.

Terms used, but not otherwise defined, in this Business Associate Agreement shall have the same meaning as those terms in the HIPAA Rules and the HITECH Standards.

2. **General Use and Disclosure Provisions.** MRX and Plan acknowledge and agree as follows:

(a) *Use or Disclosure.* MRX agrees not to use or further disclose PHI other than as expressly permitted or required by this Business Associate Agreement or as Required by Law. MRx shall not use or disclose Genetic Information (as defined in C.F.R. §160.103) for underwriting purposes in violation of the HIPAA Rules.

(b) *Minimum Necessary.* MRX will take reasonable efforts to limit requests for, use and disclosure of PHI to the minimum necessary to accomplish the intended request, use or disclosure.

(c) *Specific Use or Disclosure Provisions.* Except as otherwise limited in this Business Associate Agreement, MRX may use and disclose PHI to properly provide, manage and administer the services required under the PBM Agreement and consistent with applicable law to assist the Plan in its operations, as long as such use or disclosure would not violate the HIPAA Rules if done by the Plan, or such use or disclosure is expressly permitted in (i) through (iii) below:

- (i) MRX may use PHI for the proper management and administration of MRX or to carry out MRX's legal responsibilities.
- (ii) MRX may disclose PHI to third parties for the proper management and administration of MRX or to carry out the legal responsibilities of MRx provided that the disclosures are Required by Law, or MRX obtains written assurances from the person to whom the information is disclosed that: (A) the information will remain confidential, (B) the information will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and (C) the person agrees to notify MRX of any instances of which it is aware in which the confidentiality of the information has been breached.
- (iii) MRx may use PHI to perform Data Aggregation services on behalf of the Plan as permitted by 45 C.F.R. §164.504(e)(2)(i)(B).

(d) *Reporting.* MRX agrees to promptly notify Plan if MRX has knowledge that PHI has been used or disclosed by MRX in a manner that violates this Business Associate Agreement. To the extent that MRX creates, receives, maintains or transmits Electronic PHI, MRX agrees to report promptly to Plan any Security Incident, as determined by MRX, involving PHI of which MRX becomes aware. MRX shall, following the discovery of a Breach

of Unsecured PHI, notify Plan of such Breach without unreasonable delay and in no event later than thirty (30) calendar days after the discovery, including the identification of each individual whose Unsecured PHI has been, or is reasonably believed to have been, accessed, acquired or disclosed during the Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known or reasonably should have been known by MRX.

(e) *Safeguards.* MRX agrees to use appropriate safeguards, consistent with applicable law, to prevent use or disclosure of PHI in a manner that would violate this Business Associate Agreement. MRX shall provide Plan with such information concerning such safeguards as Plan may reasonably request from time to time. To the extent that MRX creates, receives, maintains or transmits Electronic PHI, MRX agrees to use appropriate administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of the Electronic PHI that MRX creates, receives, maintains or transmits on behalf of the Plan as required by the Security Standards.

(f) *Mitigation.* MRX agrees to mitigate, to the extent practicable, any harmful effect that is known to MRX of a use or disclosure of PHI by MRX in violation of this Business Associate Agreement or the PBM Agreement.

(g) *Subcontractors and Agents.* MRX agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by MRX on behalf of the Plan, agrees to the same restrictions, terms and conditions that apply through this Agreement to MRX with respect to such information, including the requirement that it implement reasonable and appropriate safeguards to protect any Electronic PHI that is disclosed to it by MRX.

(h) *Access.* Within fifteen (15) business days of a request by the Plan, MRX shall provide access to Plan to PHI in a Designated Record Set in order to meet the requirements under 45 C.F.R. § 164.524. If MRX receives a request directly from an Individual, or if requested by the Plan that access be provided to the Individual, MRX shall provide access to the Individual to PHI in a Designated Record Set within thirty (30) days in order to meet the requirements under 45 C.F.R. § 164.524.

(i) *Amendment.* Within sixty (60) days of a request by the Plan or subject Individual, MRX agrees to make any appropriate amendment(s) to PHI in a Designated Record Set that Plan directs or agrees to pursuant to 45 C.F.R. § 164.526.

(j) *Accounting.* Within thirty (30) days of a proper request by the Plan, MRX agrees to document and make available to Plan, for a reasonable cost-based fee (under conditions permitted by HIPAA if an Individual requests an accounting more than once during a twelve month period), such disclosures of PHI and information related to such disclosures necessary to respond to such request for an accounting of disclosures of PHI, in accordance with 45 C.F.R. § 164.528. Within sixty (60) days of proper request by subject Individual, MRX agrees to make available to the Individual the information described above. MRX shall retain copies of any accountings for a period of six (6) years from the date the accounting was created.

(k) *Restrictions on Use or Disclosure.* Within fifteen (15) business days of a request of the Plan, MRX agrees to consider restrictions on the use or disclosure of PHI agreed to by the Plan on behalf of an Individual in accordance with 45 C.F.R. § 164.522.

(l) *Audit and Inspection.* MRX agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by MRX on behalf of the Plan, available to Plan within ten (10) business days, or at the request of the Plan or the Secretary, to the Secretary in a time and manner directed by the Secretary, for purposes of the Secretary determining the Plan's compliance with the HIPAA Rules. Any release of information regarding MRX's practices, books and records is proprietary to MRX and shall be treated as confidential and shall not be further disclosed without the written permission of MRX, except as necessary to comply with the HIPAA Rules.

(m) *Compliance with the HITECH Standards.* MRX shall comply with the HITECH Standards, including, but not limited to: (i) compliance with the requirements regarding minimum necessary under HITECH § 13405(b); (ii) requests for restrictions on use or disclosure to health plans for payment or health care operations purposes when the provider has been paid out of pocket in full consistent with HITECH § 13405(a); (iii) the prohibition of sale of PHI without authorization unless an exception under HITECH § 13405(d) applies; (iv) the prohibition on receiving remuneration for certain communications that fall within the exceptions to the definition of marketing under 45 C.F.R. § 164.501 unless permitted by this Agreement and Section 13406 of HITECH; (v) the requirements relating to the provision of access to certain information in electronic access under HITECH § 13405(e);

(vi) compliance with each of the Standards and Implementation Specifications of 45 C.F.R. §§ 164.308 (Administrative Safeguards), 164.310 (Physical Safeguards), 164.312 (Technical Safeguards) and 164.316 (Policies and Procedures and Documentation Requirements); and (vii) as of the separate compliance date set forth in regulations promulgated under HITECH on this topic, the requirements regarding accounting of certain disclosures of PHI maintained in an Electronic Health Record under HITECH § 13405(c) to the extent that MRX discloses any PHI maintained in an Electronic Health Record on behalf of the Plan pursuant to this Business Associate Agreement.

3. **Plan Obligations.**

(a) Plan shall notify MRX of any limitation(s) in the notice of privacy practices of Plan in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect MRX's use or disclosure of PHI.

(b) Plan shall notify MRX of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect MRX's use or disclosure of PHI.

(c) Plan shall notify MRX of any restriction to the use or disclosure of PHI that Plan has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect MRX's use or disclosure of PHI.

(d) Plan shall not request that MRX use or disclose PHI in any manner that would exceed that which is minimally necessary under the HIPAA Rules or that would not be permitted by a Covered Entity.

(e) Plan agrees that it will have entered into "Business Associate Agreements" with any third parties (e.g., case managers, brokers or third party administrators) to which Plan directs and authorizes MRX to disclose PHI.

4. **Transactions Standards.** The HIPAA Rules provide for certain Transactions Standards for transfer of data between trading partners. While certain of the standards may or may not be adopted by the Plan (e.g., for eligibility), MRX will be prepared to accept the following in accordance with 45 C.F.R. Part 162.502: ASC X12N 834 — Benefit Enrollment and Maintenance. In addition, to the extent applicable, MRX shall comply with other applicable transactions standards for claims processing functions between MRX and provider pharmacies. Each party hereby agrees that it shall not change any definition, data condition or use of a data element or segment in a standard, add any data elements or segment to the maximum defined data set, use any code or data elements that are either marked "not used" in the standard's implementation specification or are not in the implementation specification, or change the meaning or intent of the implementation specification.

5. **Breach; Termination.**

(a) Without limiting the termination rights of the parties pursuant to the PBM Agreement, upon Plan's knowledge of a material breach by MRX of this Business Associate Agreement, Plan shall notify MRX of such breach and MRX shall have thirty (30) days to cure such breach. In the event MRX does not cure the breach, or cure is infeasible, Plan shall have the right to immediately terminate this Business Associate Agreement and the PBM Agreement. If cure of the material breach is infeasible, Plan shall report the violation to the Secretary.

(b) Without limiting the termination rights of the parties pursuant to the PBM Agreement, upon MRX's knowledge of a material breach by the Plan of this Business Associate Agreement, MRX shall notify Plan of such breach and the Plan shall have thirty (30) days to cure such breach. In the event the Plan does not cure the breach, or cure is infeasible, MRX shall have the right to immediately terminate this Business Associate Agreement and the PBM Agreement. If cure of the material breach is infeasible, MRX shall report the violation to the Secretary.

(c) To the extent feasible, upon termination of the PBM Agreement for any reason, MRX shall, and shall cause any subcontractors and agents to, return or destroy and retain no copies of all PHI received from, or created or received by MRX on behalf of, the Plan. If MRX determines, in its sole discretion, that return or destruction of such information is not feasible, MRX shall continue to limit the use or disclosure of such information as set forth in this Agreement as if the PBM Agreement had not been terminated.

(d) **Survival.** The obligations of Business Associate under this Section shall survive the termination of this Agreement.

6. **Miscellaneous.**

(a) **Amendment.** The parties acknowledge that the foregoing provisions are designed to comply with the mandates of the HIPAA Rules and HITECH Standards. MRX shall provide written notice to Plan to the extent that any final regulation or amendment to final regulations promulgated by the Secretary under HIPAA rules or HITECH requires changes to this Business Associate Agreement. Such written notice shall include any additional amendment required by any such final regulation and the Business Associate Agreement shall be automatically amended to incorporate the changes set forth in such amendment provided by MRX to Plan, unless Plan objects to such amendment in writing within fifteen (15) days of receipt of such written notice. In the event that Plan objects timely to such amendment, the parties shall work in good faith to reach agreement on an amendment to the Business Associate Agreement that complies with the final regulations. If the parties are unable to reach agreement regarding an amendment to the Business Associate Agreement within thirty (30) days of the date that MRX receives any written objection from the Plan, either MRX or Sponsor may terminate this Business Associate Agreement upon ninety (90) days written notice to the other party. Any other amendment to this Business Associate Agreement unrelated to compliance with applicable law and regulations shall be effective only upon execution of a written agreement between the parties.

(b) **Effect on PBM Agreement.** Except as relates to the use, security and disclosure of PHI and electronic transactions, this Business Associate Agreement is not intended to change the terms and conditions of, or the rights and obligations of the parties under, the PBM Agreement.

(c) **No Third-Party Beneficiaries.** Nothing express or implied in the PBM Agreement or in this Business Associate Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations or liabilities whatsoever.

(d) **Interpretation.** Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits the Plan to comply with the HIPAA Rules and the HITECH Standards.

(e) **Effective Date.** This Business Associate Agreement shall be effective as of the applicable Compliance Dates.

(f) **Binding Signature.** MRX's signature below shall constitute a valid and binding enforceable Business Associate Agreement between the parties, even if Plan chooses not to countersign and return this Business Associate Agreement.

MAGELLAN RX MANAGEMENT, INC.

CITY OF OPELIKA

By:



By: _____

Printed Name: Robert W. Field

Printed Name: _____

Title: President

Title: _____

Date: March 1, 2015

Date: _____

PLAN SIGNATURE OPTIONAL

MAGELLAN Rx MANAGEMENT, INC.
Direct Plan Sponsor Agreement for PBM Services

This Plan Sponsor Agreement for PBM Services including Exhibits (“Agreement”), effective as of March 1, 2015, is between Magellan Rx Management, Inc. (“MRx”) a Delaware corporation and City of Opelika, an Alabama government entity (“Account”).

Account contracts and pays for pharmaceutical products and services (“Benefits”) for persons (“Members”) covered under the prescription benefit plans listed in the Benefit Builder(s) (the “Plans”), and MRx is a provider of a broad range of pharmacy benefit management services (“PBM Services”).

Now, therefore, in consideration of the mutual promises contained in this Agreement, the parties agree as follows:

1. PBM Services. MRx will provide the PBM Services described in Exhibit A hereto with respect to the Plans in accordance with applicable Law and the provisions of this Agreement. Whether or not coverage is provided under the Plans, nothing herein shall require or forbid the provision of any products or services by pharmacies to Members contrary to the professional judgment of pharmacists, or otherwise interfere with the professional relationship between prescriber, pharmacy and patient.

2. PBM Fees. In consideration of the PBM Services provided hereunder by MRx, Account agrees to pay MRx for the costs of pharmaceutical products, services and fees (collectively PBM Fees”) covered under this Agreement, indicated in Exhibit B and C hereto (“PBM Fees”).

3. Invoicing/Payment. MRx will submit invoices to Account (or its designated third party administrator) for PBM Fees (followed by a listing of claims supporting the invoices) twice per calendar month on a schedule conforming to MRx’s billing cycle. All PBM Fees are due and payable upon invoice by wire transfer to an account, or by other means, designated by MRx in writing. Account agrees that any balance remaining unpaid five (5) business days thereafter shall bear a finance charge from the due date until paid in full, equal to the lesser of (i) an annual interest rate consisting of the prime interest rate plus five percent (5%) on overdue amounts until paid or (ii) the maximum rate permitted under applicable Law. If any portion of any PBM Fee is overdue and placed with an attorney or other third party for collection, Account will reimburse MRx for its collection expenses including, without limitation, reasonable attorneys’ fees and expenses.

4. Taxes. Account will pay all taxes and duties resulting from the delivery or use of any of the products or services provided hereunder by MRx (excluding taxes on MRx’s income). MRx may include taxes on invoices provided to Account.

5. Eligibility. At least five (5) business days prior to a Plan’s Effective Date, as specified in the Benefit Builder(s) attached to Exhibit A hereto, and by the second business day of each calendar month thereafter (or more frequently if desired by Account), Account or its contracted Healthcare Plan third party administrator shall deliver to MRx on electronic media a list of Members covered by each Plan in the format specified by MRx in writing. Interim or supplemental eligibility lists may also be submitted to MRx in said form or, with MRx’s consent, on hardcopy. MRx will not be financially or otherwise responsible for any mistaken coverage, claim payment or denial determination if such mistake is due to a change in a person’s eligibility status and the mistake is made prior to the earlier of (i) the entering of such change information in the claims processing system or (ii) two (2) business days after such change information is received by MRx.

6. Benefit Builder. MRx may complete a Benefit Builder with Account obtaining information related to Account’s benefit structure, system requirements, operational requirements, services selected, and other information related to Account and its benefit plan. Account will reasonably cooperate in completing the Benefit Builder and

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upon request of MRx, will review and confirm the accuracy of the information contained in the Benefit Builder. MRx shall have the right to rely on all information contained in the Benefit Builder sheet.

7. Indemnification and Related Matters.

- 7.1 MRx Indemnity. MRx agrees to indemnify, defend and hold Account and its subsidiaries, affiliates, and their officers, directors, employees, and agents (each a “Account Indemnified Party”), harmless from and against any claims, actions, or causes of action (collectively, “Actions”) asserted against a Account Indemnified Party in the event the Action arises from MRx’s violation of Law, breach of this Agreement, or negligence or willful misconduct.
- 7.2 Account Indemnity. Account agrees to indemnify, defend and hold MRx and its subsidiaries, affiliates, and their officers, directors, employees, and agents (each a “MRx Indemnified Party”), harmless from and against any Actions asserted against a MRx Indemnified Party in the event the Action arises from Account’s violation of Law, breach of this Agreement, provision of Member identifiable information to Account or Account’s agent or designee (or the subsequent use or disclosure of such information or data by Account or its agent or designee), or negligence or willful misconduct.
- 7.3 No Compromise. A Party seeking indemnification under this Section 7 shall provide prompt written notice of any Action to the other Party, shall provide reasonable assistance to the other Party, and shall not take any action, or fail to act, so as to compromise the other Party’s position with respect to the resolution or defense of any such Action.
- 7.4 Insurance. During the term of this Agreement, MRx will maintain liability coverage with limits not less than \$1,000,000 per occurrence and in the aggregate per policy year, and excess liability in an amount not less than \$5,000,000 per policy year. MRx will provide evidence of such coverage upon Account’s written request.
- 7.5 Pharmacy Care. Account acknowledges that, except to the extent provided in Section 7.1, MRx assumes no responsibility for the nature or quality of pharmaceutical products dispensed, the provision or failure to provide pharmaceutical goods or services, or any action or inaction by Participating Pharmacies, pharmaceutical manufacturers, or other providers of care in connection with this Agreement.
- 7.6 Disclaimers. MRx relies on First Data Bank, Medi-Span or other industry comparable databases in providing Account and Members with PBM Services. MRx has utilized due care in collecting and reporting the information contained in its databases and has obtained such information from sources believed to be reliable. In addition, the data available from MRx through the databases and services provided hereunder is limited by the amount, type and accuracy of information made available to MRx by Account, Participating Pharmacies, Members and prescribers. MRx has no obligation to acquire information about a Member beyond that provided in connection with enrollment and Claims information from Participating Pharmacies. MRx does not warrant the accuracy of reports, alerts, codes, prices or other data contained in such databases. The clinical information contained in these databases and the Formulary is not intended as a supplement to, or a substitute for, the knowledge, expertise, skill, and judgment of physicians, pharmacists, or other healthcare professionals involved in Members’ care. The absence of a warning for a given drug or drug combination in a database shall not be construed to indicate that the drug or drug combination is safe, appropriate or effective for any Member.
- 7.7 Limitation of Liability. No Party shall be liable to any other Party for punitive or other exemplary damages arising out of this Agreement or out of its performance hereunder, regardless of the form of action and/or whether the Party is or was aware of the possibility of such damages. MRx’s liability for negligence or

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willful misconduct by MRx will be limited to the per occurrence liability insurance amount set forth in Section 7.4.

8. Term and Termination. Effective Date. This Agreement shall become effective on the Effective Date, and shall continue in full force and effect for two (2) years (“Initial Term”), and will automatically renew for consecutive twelve month term(s) unless at the end of the Initial Term either party provides the other party with written notice of such party’s intent not to renew sixty (60) days prior to any Effective Date anniversary or as provided herein.

8.1 Termination; Suspension of Performance. This Agreement may be terminated in the following manner:

8.1.1 Notwithstanding any other provision of this Section 8, this Agreement may be terminated: (i) by MRx if Account fails to make any payment due under this Agreement within thirty (30) days of such payment due date; (ii) by either party if the other party commits a material breach of this Agreement, and such breach has not been cured to the reasonable satisfaction of the non-breaching party within ten (10) days of receipt of written notice of such breach; or (iii) by either party if the other party becomes insolvent, is dissolved or liquidated, makes a general assignment for the benefit of creditors, files or has filed against it a petition in bankruptcy and such petition is not dismissed with prejudice within 45 days after the filing, or has a receiver appointed for a substantial part of its assets; (iv) by mutual consent of the parties; or (v) as otherwise permitted in this Agreement.

8.1.2 Upon termination of the Agreement for any reason, MRx and its designee shall cease to have any liability for payment of Claims incurred after the effective date of such termination. In the event that MRx or any Participating Pharmacy is required by law to continue providing Services or processing Claims after such termination, Account shall be liable to reimburse MRx for any and all such Claims plus any other fees that would otherwise be due hereunder for such Services.

8.1.3 In addition to and notwithstanding any other terms of this Agreement, in the event that Account fails to provide the information required in Section 5 or fails to make any payments due hereunder by the due date of such payment, MRx may, after the provision of ten (10) days prior written notice to Account, suspend performance of its obligations under this Agreement without being liable to Account or any Member. MRx, in its sole discretion, may accept late Enrollment Information or payment of delinquent amounts and, upon acceptance, this Agreement may be reinstated retroactively to the due date for such payment, in MRx’s sole discretion. Any such acceptance and reinstatement by MRx shall not be deemed a waiver of MRx’s termination or suspension rights in the event of any future failure of Account to provide Enrollment Information or make timely payment of any amounts due under this Agreement. Delivery of payment to MRx or MRx’s receipt and negotiation of a tendered payment through its deposit procedures shall not be deemed acceptance or a waiver of such termination.

8.1.4 If there shall occur any change in the condition (financial or otherwise) of Account, which MRx reasonably determines may have a material adverse effect upon the enforceability of this Agreement, or the financial condition or business operation of Account, or on the ability of Account to fulfill their obligations under this Agreement, then MRx shall have the right to require Account to provide adequate assurance of future performance which assurance may, at MRx’s sole option include payment of a deposit. Examples of such a change would include but not be limited to the following: repeated late payments, voluntary or involuntary insolvency or bankruptcy proceedings. In the event such further assurance is required by MRx as provided herein, but is not received within ten (10) days of the date of written notice to Account of such requirement, then MRx may suspend its performance of its obligations under this Agreement until the date of receipt by MRx of such adequate assurance without being liable to Account or any Member for such suspension.

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8.2 **Adverse Government Action.** In the event any department, branch, or bureau of the federal, state or local government materially adversely affects either parties' performance of obligations under this Agreement, then that party shall notify the other of the nature of the action, including in the notice a copy of the adverse action. The parties shall communicate within thirty (30) days and shall, in good faith, attempt to negotiate a modification to the Agreement to minimize the adverse effects. If the parties are unable to reach a negotiated modification, then either party may terminate this Agreement on thirty (30) days prior written notice.

8.3 **Claims Run-out.** Following termination of this Agreement, MRx or its designee shall, upon written request of Account, continue to administer and pay Claims Run-out for a period of twelve months following termination. During any such Claims Run-out MRx shall be compensated in the same manner as identified in this Agreement prior to termination. MRx shall have no obligation to process or pay any Claims Run-out beyond the twelfth month following termination.

9. Disputes and Governing Law. In the event that any dispute, claim or controversy relating to this Agreement arises between MRx and Account, both agree to meet and make a good faith effort to resolve the dispute. If the dispute is not resolved within thirty (30) days after either party requests in writing a meeting to resolve the dispute, and either party wishes to pursue the dispute further, that party shall refer the dispute to binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association ("AAA"), and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Said arbitration shall occur within the County of Maricopa, State of Arizona, by a panel of 3 arbitrators, under the then commercial arbitration rules of the AAA. If the parties cannot agree upon an arbitrator, an arbitrator shall be chosen by the local Arizona AAA office. Each party shall bear its own costs during the proceedings, and shall jointly compensate the arbitrator. The arbitrator shall be authorized to award costs (including attorney's fees) as the arbitrator sees fit in accordance with his or her arbitration award.

10. Amendment/Waiver. This Agreement may not be modified or amended except by a writing signed by both parties. The failure of a party to enforce at any time any provision of the Agreement shall not be a waiver of the provision or prevent the party from subsequently enforcing the provision.

11. Assignment/Subcontracting. MRx may assign any or all of its rights and obligations under this Agreement to affiliates and may subcontract its obligations hereunder upon written notice to Account. Account may not assign any of its rights or obligations or subcontract the performance of any of its obligations under this Agreement without prior written consent of MRx, which consent shall not be unreasonably withheld.

12. Rebate Payments. MRx or its designee may contract with certain pharmaceutical manufacturers for rebates. Account acknowledges that whether and to what extent pharmaceutical manufacturers are willing to provide rebates will depend upon the Plan benefit design selected by Account, as well as MRx or its designee receiving sufficient information regarding each Claim submitted for rebates. MRx will receive the rebates and will remit to Account such rebates as agreed upon as shown in Exhibit B. Rebates due Account, if any, will be paid within sixty (60) days of the beginning of the quarter following the quarter in which such rebates were received by MRx. If Account terminates early, all earned but unpaid rebate revenue will be retained by MRx.

13. Disclosure. In addition to the fees and reimbursement otherwise payable to MRx under this Agreement, MRx may receive other fees or revenue as described below. In negotiating or obtaining any of these amounts MRx is acting on its own behalf and not for the benefit of or as agents for any Client, Account or Member. MRx retains all proprietary and beneficial interest in such amounts and Account acknowledges for itself and its Members covered hereunder, that neither it, nor any Member has a right to receive or possess any beneficial interest in such amounts, provided that MRx will pay Client or Accounts manufacturer rebate amounts as identified and agreed to herein.

13.1 Participating Pharmacies may be contracted hereunder to provide services to Account at various reimbursement rates (including AWP discounts, dispensing fees and MAC) and compensation terms. The

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reimbursement rates set forth in Exhibit B and Exhibit C hereto represent the amount payable by Account hereunder and may be greater than or less than the actual Participating Pharmacy contracted rate, and MRx may retain the difference, if any.

- 13.2 MRx contracts with a national drug rebate administrator to collect rebates from pharmaceutical manufacturers. This drug rebate administrator will retain a portion of the collected rebates for its services. In addition, in connection with the management and administration of the rebate process, the drug rebate administrator may receive administrative fees from pharmaceutical manufacturers participating in such rebate program. Any such administrative fees paid to the drug rebate administrator is estimated not to exceed three percent (3%) of the aggregate cost of the pharmaceutical products dispensed to Members on which such fees are paid.
- 13.3 MRx or its designee may receive fees or other compensation from pharmaceutical manufacturers, including, without limitation, fees for property provided or services rendered to a pharmaceutical manufacturer or fees relating to ownership or operation of Mail Order Pharmacies or specialty pharmacies (including, without limitation purchase discounts). These amounts belong exclusively to MRx or its designee and are not included in any rebate payment agreement between the parties.
- 13.4 MRx, in its sole and exclusive discretion, may retain any of the amounts described in this Section 13.0 and/or distribute such amounts to Client, Accounts, Producers, Representatives or others, in compliance with applicable Law. Additionally, Claims submitted to MRx under this Agreement may be processed without regard to such amounts. Except for the fees identified in Section 13.2 above, all other amounts received or retained by MRx in this Section 13.0 are estimated to average between 1.5% and 5.0% of each Account's total healthcare plan costs on an annual basis.

14. Audits.

- 14.1 General. Up to once annually, Account may audit MRx's performance of PBM Services. The audit shall be conducted so as not to unduly interfere with the operation of MRx's business operations. In the event Account wishes to conduct an audit, it shall provide a written audit request to MRx and a document outlining the proposed scope of the audit. Within sixty (60) days of receiving the scope document, MRx shall compile and prepare the data in a format agreeable to both Parties.
- 14.2 Third Parties. Account shall have the right (and for an audit of Rebates, the obligation) to utilize an independent audit firm to conduct an audit. Any third party audit firm shall not have a conflict of interest, and Account shall cause such firm to sign MRx's standard audit protocol/confidentiality agreement. For purposes of this Section 14, a "conflict of interest" does not exist solely because the audit firm has previously audited MRx for Account or other customers of MRx. In the event Account utilizes an audit firm, MRx shall compile and prepare the data in a format agreeable to both Parties within sixty (60) days after receipt of the scope document and a signed confidentiality agreement. A request by Account to use an independent audit firm shall constitute Account's authorization to MRx to provide Member-identifiable information to such auditor in accordance with Law.
- 14.3 Other Procedures. An audit of Claims records or Rebates will cover a maximum period of twelve (12) months prior to the agreed upon audit date. MRx will be liable for agreed upon findings attributable only to the audit period. No audit period may be audited more than once. No audits will be conducted during the months of November, December and January because of the demands of the annual renewal/implementation period. No audits shall be permitted unless and until Account has executed this Agreement. Account is responsible for all expenses of the auditor(s). Any material reviewed during the course of an audit shall be considered Confidential Information.

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15. Records and Reports.

- 15.1 Recordkeeping and Provision of Records. All records and reports generated by MRx hereunder are the property of MRx.

15.1.1 MRx agrees to comply with all reasonable requests made by Account to provide copies of records and reports related to this Agreement. However, there may be an additional charge associated with such requests as noted in Section 15.5 below.

15.1.2 MRx agrees to maintain reasonable documentation related to the PBM Services provided to Members and Claims processed pursuant to this Agreement and Account agrees to maintain reasonable documentation related to the Enrollment Information and Plan benefit design information provided hereunder (collectively "Records") for six (6) years from the date of such Service, Claim, or Enrollment or such longer period that may be required by applicable Law. Such Records shall be maintained in a format and electronic media deemed appropriate by the party holding such Records. MRx shall also require that Participating Pharmacies maintain records in compliance with applicable Law of the Covered Pharmaceuticals dispensed to Members. Subject to all applicable privacy and confidentiality requirements, certain Records may be made available to other pharmacies and health professionals treating Members.

- 15.2 Billing Reports. MRx shall provide Account standard billing reports to include information on Claims paid, utilization patterns of Members, fees due hereunder, reconciliation, accounting transactions and cash flow. Additional reports or information may be requested by Account shall be provided for a fee as mutually agreed by the parties. The parties acknowledge that such Account-specific requests are likely to require Account-specific programming, which shall be at the rate set forth in Exhibit B attached hereto.
- 15.3 Network Changes. Should Account request additional pharmacies be added to the list of Participating Pharmacies hereunder, MRx or its designee will attempt to add such pharmacies and pay for the Claims submitted by these pharmacies as agreed to by the parties in writing in advance.
- 15.4 Standard Reports. MRx shall provide quarterly utilization and eligibility reports to Account in MRx's standard formats. In addition, MRx shall provide to Account, upon request, a list of Participating Pharmacies in MRx's standard format.
- 15.5 Custom Reports. In the event Account requests from MRx information, records or data reports that differ substantially from MRx's standard reports, Account shall pay MRx an additional charge as defined in Exhibit B attached hereto. The additional charge shall be mutually agreed upon by the parties before such information, records, data reports or custom programming are developed or provided to Account.
- 15.6 Transfer of Data Upon Termination. Upon termination of this Agreement for any reason, Account and MRx will develop a mutually agreeable plan for the orderly transfer of data relating to the Plan, claims payment, and the like from MRx to Account or its designee, provided, however, that if Account has not fully paid MRx, then MRx is expressly granted a lien on all such data and shall have no obligation to release the data to Account until all obligations of Account MRx have been met. If this Agreement is terminated, MRx shall deliver to Account a claim history report for the two (2) years preceding the termination date, provided Account gives written direction to MRx to make the transfer. The transfer shall occur at a mutually agreeable time within 30 days of MRx's receipt the written direction. The timeframe for delivery of requests for additional information shall extend for a period of not less than 90 days after the termination date. The claim history report will be provided in the MRx standard format then available. Additional transfer files such as Mail Order open retail files, prior authorization files and accumulator files are not standard reports and will be subject to additional fees.

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15.7 **HIPAA Compliance.** MRx is not a “covered entity” under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), in connection with the PBM Services rendered under this Agreement, but for purposes of this Agreement is deemed to be a “business associate” of Account as defined in HIPAA. The parties agree to execute a Business Associate Agreement to address the requirements of HIPAA.

16. Compliance with Law. MRx represents and warrants that it is, and will be at all times during the term of this Agreement, in good standing under any applicable license issued by the states in which it does business and agrees to promptly notify Account in the event any such license is revoked. MRx will comply with all Laws applicable to it and the PBM Services it provides under this Agreement and Account shall have no responsibility to advise MRx regarding its compliance with any applicable Law.

17. Entire Agreement/Binding Effect Governing Law. This Agreement and related Exhibits and documents referenced, (i) contains the entire agreement between the parties respecting its subject matter, superseding all prior oral and written representations, agreements and understanding between the parties with respect thereto, (ii) shall be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns and (iii) shall be construed in accordance with and governed by the Laws of the State of Arizona. Any action brought to enforce the terms of this agreement shall be brought in Maricopa County, Arizona.

18. Plan Sponsor. Account agrees and understands that it is the plan sponsor, plan administrator and fiduciary for purposes of required actions and disclosures under the Employee Retirement Income Security Act. Nothing in this Agreement shall be construed to create a fiduciary relationship between MRx and the Account or its employee benefit plan.

19. Member Hold Harmless.

19.1 MRx agrees to bill and collect payment solely from Account or designee(s) for Covered Pharmaceuticals provided to Members under the Plan, except that Participating Pharmacies shall bill, collect and accept compensation for Covered Pharmaceuticals from Members for applicable copayments, deductibles, and coinsurance. Except as specifically stated in this Agreement, in no event shall MRx directly or indirectly collect, attempt to collect or accept, remuneration or reimbursement from a Member, including but not limited to, disputes of payment between MRx and Account, Account’s insolvency, Account’s failure to pay MRx or any other breach by Account of the terms of this Agreement. This provision shall survive termination of this Agreement and shall be for the benefit of Members.

19.2 Notwithstanding the foregoing, Participating Pharmacy may seek payment from a Member for pharmacy services or other items dispensed to a Member which are not Covered Pharmaceuticals pursuant to the Member’s Plan. However, this will only occur if the Member has requested the pharmacy service to be provided notwithstanding determination that it is not a Covered Pharmaceutical, and only if Participating Pharmacy has provided the Member notice, prior to providing the pharmacy service, of the approximate cost said Member will incur. Participating Pharmacy may bill the Member at its customary rate for any such pharmaceutical.

20. Counterparts; Facsimiles. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart. This Agreement may be executed and delivered by facsimile and upon such delivery the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party. The original signature copy shall be delivered to the other party by express overnight delivery. The failure to deliver the original signature copy and/or the non-receipt of the original signature copy shall have no effect upon the binding and enforceable nature of this Agreement.

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21. Notices. Any notice required or permitted to be given to a party under this Agreement, if given in writing, will be deemed given the earliest of when delivered (by mail, courier, facsimile transmission or otherwise), when delivery is refused, or three business days after being mailed (certified mail, return receipt requested) to the party at the following notification address or such other address as the party hereafter may specify by notice given in like manner: for MRx – to the attention of the President, and for Account – to the attention of the person listed below.

Accounts Address for Billing:
City of Opelika
204 South 6th Street
Opelika, AL 36803

Accounts Address for Notice:
City of Opelika
204 South 6th Street
Opelika, AL 36803

MRx Address for Notice:
Magellan Rx Management, Inc.
Robert W. Field, CEO
15950 N. 76th Street, Suite 200
Scottsdale, AZ 85260

22. Confidential and Proprietary Information

- 22.1 Confidential Information. The term “Confidential Information” means information of a confidential or proprietary nature disclosed by one Party (the “Disclosing Party”) to the other (the “Receiving Party”). Confidential Information includes, but is not limited to, matters of a technical nature such as trade secrets, methods, compositions, data and know-how, designs, systems, and processes, and any information derived therefrom; matters of a business nature, such as the terms of this Agreement, proprietary reimbursement formula(e), marketing, sales, strategies, proposals, lists of Participating Pharmacies and pharmaceutical manufacturers, and any other information that is designated by either Party as confidential or which the Receiving Party should reasonably understand is confidential and/or proprietary based on nature of the information.
- 22.2 Treatment of Confidential Information. The Receiving Party agrees to hold the Disclosing Party’s Confidential Information in strict confidence and to take reasonable precautions to protect such Confidential Information (including using all precautions the Receiving Party employs with respect to its own Confidential Information), and not to use Confidential Information for any purpose not previously authorized by the Disclosing Party, except as necessary for MRx to perform PBM Services. The Receiving Party further agrees not to disclose any Confidential Information to a third party unless authorized in writing by the Disclosing Party and provided further that the ultimate recipient of such Confidential Information agrees to be bound by confidentiality terms at least as stringent as those contained herein. The Receiving Party may disclose Confidential Information to its employees, directors, and affiliates (collectively “Receiving Party Representatives”) that have a reasonable need to know such information, provided that such Receiving Party Representatives are informed of the confidential nature of the information and have agreed to treat the Confidential Information in a confidential manner consistent with this Agreement.
- 22.3 Exceptions. “Confidential Information” does not include information that (a) prior to disclosure hereunder was known by the Receiving Party, provided that there has not been a violation of any confidentiality obligation to the Disclosing Party, (b) is or subsequently becomes publicly available without violation of any confidentiality obligation owed to the Disclosing Party, (c) is independently developed by the Receiving Party without violation of this Agreement, or (d) is disclosed with the written approval of the Disclosing Party.

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- 22.4 **Requests.** If the Receiving Party receives a court order, subpoena or governmental request (whether formal or informal) for Confidential Information, the Receiving Party shall promptly notify the Disclosing Party to provide the Disclosing Party with the opportunity to seek confidential treatment or other appropriate relief relating to such Confidential Information. The Receiving Party shall not oppose such efforts. If the Disclosing Party is unable to obtain any relief with respect to the request, the Receiving Party may provide those portions of Confidential Information that it is advised by counsel are required by Law to be produced, and will further use commercially reasonable efforts to obtain confidential treatment of the Confidential Information from the recipient of such information.
- 22.5 **Programs.** Any clinical and other programs implemented by MRx, including any Formulary, together with any related materials, manuals, lists and descriptions provided hereunder, will remain the property of MRx. Account will use such programs only while this Agreement is in effect.
- 22.6 **Trademarks.** Neither Party shall use the other's trademarks, trade names, nor service marks (or any reasonably likely to cause confusion) without the other Party's written consent.
- 22.7 **Member and Account Identifiable Information.** The Parties will comply with all Laws regarding patient confidentiality as set forth in the Business Associate Agreement between them. MRx will not provide any data or information that identifies Account without Account's consent, except as reasonably necessary to provide PBM Services or as required by Law. The restrictions set forth in this Section 7 do not apply to Claims data or other information that does not identify Account.
- 22.8 **Remedies.** The Parties acknowledge that any unauthorized use or disclosure of the other's Confidential Information would cause the Disclosing Party immediate and irreparable injury or loss. Accordingly, if MRx or Account fails to comply with the confidentiality provisions of this Agreement, or threaten to do so, the Disclosing party shall be entitled to equitable relief, including the immediate issuance of a temporary restraining order or preliminary injunction enforcing this Agreement, in addition to other remedies permitted by Law.

23. Definitions. For purposes of this Agreement and any addenda or schedule to this Agreement, the following terms shall have the following meanings:

Account. An employer group, corporation, union, association, governmental entity, health plan, individual or other organization contracted for MRx PBM Services either directly with MRx or through a client of MRx and for which MRx provides PBM Services as provided hereunder.

Administrative Fees. Those charges assessed for MRx to process Claims, rebates, or other items and PBM Services.

Average Wholesale Price (AWP). The average wholesale price of medication drugs or ancillary supplies, as applicable, as dispensed and as set forth in the latest edition of the Medi-Span Prescription Pricing Guide (with supplements) or any other nationally recognized pricing source mutually agreed upon by the parties (the "Pricing Source"). For prescription drug products dispensed somewhere other than a mail service pharmacy, AWP is based on the individual units dispensed or smallest package size available (e.g., per vial, per suppository, etc.). For prescription drugs dispensed by MRx's contracted mail service pharmacy, AWP is based on a package size of one hundred (100) units for pills, capsules and tablets and sixteen (16) ounce quantities for liquids (or the next closest package size if such quantities or sizes are not available).

- a. Account acknowledges that MRx shall be entitled to rely on Medi-Span and the publisher of any mutually agreed upon pricing source to determine AWP for purposes of establishing the pricing provided to Account under this Agreement. Client further acknowledges that MRx does not establish AWP, and MRx shall have

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no liability to Client arising from the use of the Medi-Span Pricing Guide or information received from any Pricing Source.

b. If MRx decides to utilize a pricing benchmark other than AWP or is required to do so because the Pricing Source discontinues publication of AWP and such change would materially affect Account's economic benefit under this Agreement ("Material Pricing Change"), then MRx shall provide Account with the modified pricing terms at least thirty (30) days prior to the effective date of such change. If the parties fail to mutually agree upon the modified pricing terms before the effective date of the Material Pricing Change, then MRx's proposed modified pricing terms will go into effect until otherwise agreed. Additionally, if no agreement is reached concerning the Material Pricing Change, either party may terminate this Agreement upon sixty (60) days prior written notice to the other party.

Brand. Those Prescription Drug(s) designated as "M", "N", or "O" in Medi-Span's Generic Product Identifier. For purposes of pricing under this Agreement, some Generics, such as a patent-holder licensed Generic, may be processed as Brand.

Claim. A request for payment of benefits for Covered Pharmaceuticals that are dispensed to a Member on or after the Effective Date of this Agreement, which formula for reimbursement is set forth in Exhibit B and Exhibit C.

Claims Runout. A process whereby Claims which are incurred but unreported and/or unpaid as of the effective date of termination of this Agreement will be processed and paid for up to twelve months after the termination of this Agreement.

Compound Prescription Drug Claim. A Claim for a Prescription Drug prepared by a pharmacist who mixes or adjusts one or more Prescription Drugs to customize a medication to meet a Member's individual medical needs. Prescription Drug Compensation for a Compound Prescription Drug Claim shall include the contracted rate for each Prescription Drug covered by the Benefit Plan and one contracted dispensing fee minus any cost-sharing amount.

Covered Pharmaceuticals. Those Prescription Drugs and supplies a Member is entitled to receive pursuant to his or her Prescription Drug Program, provided all required payments have been made in accordance with the terms and conditions of the applicable Plan Document.

Formulary. A periodically updated list of Prescription Drugs selected for their clinical efficacy, safety and cost effectiveness.

Generic. Those Prescription Drug(s) designated as "Y" in Medi-Span's Generic Product Indicator. For purposes of pricing under this Agreement, some Generics, such as a patent-holder licensed Generic, may be processed as Brand.

Law. Any applicable federal, state and local laws, rules, regulations, administrative guidelines, judicial or administrative order or agreement with any governmental agency, unit or subdivision, as such may be amended from time to time.

Mail Order Pharmacy. An entity that (1) is licensed in accordance with applicable Law; (2) dispenses prescription pharmaceuticals through the mail to Members; and (3) is under contract to MRx to dispense Covered Pharmaceuticals in accordance with this Agreement.

Maximum Allowable Charge ("MAC"). The then current maximum allowable cost of certain prescription products, selected in accordance with criteria established by MRx, that are subject to MRx's MAC pricing formulas, which are subject to change from time to time.

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Member. An individual who has been designated by the Account to MRx in writing (or by electronic means, tape or other means approved by MRx) as eligible for Covered Pharmaceuticals under the terms of an Account's employee benefit Plan.

MRx Subcontractor (Subcontractor). A contract provider to MRx, providing certain services related to this Agreement.

Paid Claim. Any Prescription Drug Claim adjudicated during MRx's semi-monthly billing cycle that is approved for payment as well as any reversals of an approved Claim that occur after such billing cycle. Paid Claim shall not include rejected or denied Claims or Claims approved for payment and reversed during the same semi-monthly billing cycle.

Participating Pharmacy. A licensed pharmacy that has entered into an agreement to provide Covered Pharmaceuticals to Members. Participating Pharmacy references in this Agreement will include Mail Order Pharmacy.

Plan Document. The contractual document describing the Account's Plan and the benefits Members are entitled to thereunder.

Plan(s). An Account's drug benefit program that offers certain Covered Pharmaceuticals to Members and for which MRx has contracted to provide Services under the terms of this Agreement.

Prescription Drug. Pharmaceutical or pharmaceutical compounds (i) which are included in the United States Pharmacopeia/National Formulary and which are required to be dispensed pursuant to a prescription and which, by law, are required to bear the legend "Caution -- Federal Law prohibits dispensing without prescription", or (ii) which are otherwise accepted by clients and Accounts of MRx as a Covered Pharmaceutical for the purpose of this Agreement or for the purpose of the Agreement between MRx and its client(s) and Accounts.

PBM Services. The basic pharmacy benefit management services which MRx will provide to Accounts, as set forth in Exhibit A of this Agreement.

Rebates. Any retrospective discount received by MRx that is paid by a pharmaceutical manufacturer for utilization of designated prescription products by Members under the applicable rebate agreement with MRx, including but not limited to base/formulary, incentive and market share rebates.

Specialty Drugs. Those Prescription Drugs listed on the Specialty Drug List. The list includes biotechnology drugs, orphan drugs used to treat rare diseases; typically high-cost drugs, drugs administered via oral or injectable routes, including infusions in any outpatient setting; drugs requiring on-going frequent management and/or monitoring of the patient; and drugs which requires specialized coordination, handling and distribution services to ensure appropriate medication administration. In the event Specialty Drugs are dispensed at MRx's affiliate or contracted Mail Order Pharmacy, such drugs shall pay at the specialty rates set forth in this Agreement, not the mail order rates.

Specialty Drug List. MRx's list of Specialty Drugs available at MRx's affiliate or contracted Specialty Pharmacy. MRx shall update this list at least quarterly.

Specialty Pharmacy. A facility that is duly licensed to operate as a pharmacy at its location and duly licensed to dispense Specialty Drugs to individuals, including Members. Specialty Pharmacy includes those pharmacies that are owned or operated by MRx's affiliates or Subcontractor.

Usual and Customary Charge. The price, including all applicable customer discounts, such as special customer, senior citizen and frequent shopper discounts, that a cash paying customer pays a pharmacy for Prescription Drugs.

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Value-Added Services. The additional services MRx may make available at additional cost to its clients and Accounts as set forth in Exhibit A of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the most recent below-indicated date.

Magellan Rx Management, Inc.

City of Opelika

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

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EXHIBIT A

BENEFIT BUILDER(S) – attached**SERVICES**

- I. For the fees set forth in Exhibit B and Exhibit C attached hereto, MRx shall provide the following Services to Account.
- A. Participating Pharmacy Network Access and Management
1. MRx Participating Pharmacy Network(s).
 - a. Network Access. Members will have access to the network of Participating Pharmacies established and maintained by MRx or its designee to deliver Covered Pharmaceuticals to Members. This network includes, but is not guaranteed to continue to include, over 50,000 contracted pharmacies. MRx will maintain or develop a contracted network in Account's service areas to help ensure that reasonable access standards are supported for this Agreement.
 - b. Network Management. MRx or its designee shall exercise its best efforts to enforce its agreements with the Participating Pharmacies to ensure that Participating Pharmacies shall provide Covered Pharmaceuticals to Members under the standards of care and other terms and conditions set forth in the Participating Pharmacy agreements.
 - c. Network Auditing. MRx or its designee shall retain the right to perform audits of its Participating Pharmacies. Such audits may include:
 - i) Statistical Auditing. A periodic computerized analysis of those Participating Pharmacies handling a significant number of claims which compares their Claims activity to the Claims activity of similar pharmacies. This information shall be used for, among other things, field audit selection.
 - ii) Field Auditing. Each year during the term of the Agreement, field audits will be performed on selected Participating Pharmacies to assure compliance with such Participating Pharmacies' agreements.
 - d. Pharmacy Network Additions or Deletions. MRx agrees to notify Account promptly of any deletions or additions to its Participating Pharmacy network that will materially affect the ability of Members to obtain Covered Pharmaceuticals hereunder.
 - e. MRx agrees to notify Account immediately upon receipt of notice of any legal actions MRx is aware of, taken against a Participating Pharmacy related directly or indirectly to the provision of Covered Pharmaceuticals to Members hereunder.
 2. Fees. For Covered Pharmaceuticals provided under this Agreement, Account shall pay MRx the amount set forth in Exhibit B.

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B. Mail Order Pharmacy

1. Services

- a. MRx has made Mail Order Pharmacy services available to Account through a designee. MRx or its designee shall maintain, operate and provide to Account a Mail Order Pharmacy, to provide Covered Pharmaceuticals to Members through the United States Postal Service or private shipping enterprises. Nothing in this Agreement shall prohibit MRx from utilizing any third-party Mail Order Pharmacy to provide Covered Pharmaceuticals to Members.
 - b. MRx or its designee shall receive prescriptions from Members via the U.S. mail or commercial carrier at a specified address(es) from time to time. Subject to reasonable processing parameters, MRx or its designee shall dispense Covered Pharmaceuticals in accordance with such prescriptions and mail the Covered Pharmaceuticals to Members at addresses designated by such Members, so long as such addresses are located in the United States or Puerto Rico.
 - c. Covered Pharmaceuticals shall be dispensed according to applicable state and federal Law and in accordance with standards of care prevalent in the mail service pharmacy industry. There shall be no obligation to fill any prescription for Covered Pharmaceuticals which is not accompanied by an appropriately completed order form and the payment of any applicable copayment, coinsurance or deductible.
 - d. Members will be provided a toll-free telephone access to pharmacists and service representatives as defined by MRx or its designee.
 - e. Claims submitted by Members through the Mail Order Pharmacy shall be processed in a manner similar to the manner in which retail Claims are processed under this Agreement.
 - f. Nothing herein shall be construed to prohibit or otherwise limit the ability of any pharmacist employed by MRx or its designee to exercise his or her professional judgment, including the refusal to fill a prescription. Further, nothing herein shall be construed to require MRx or its designee to stock all federal legend drugs in its Mail Order Pharmacy.
2. Fees. For Covered Pharmaceuticals provided under this Agreement, Account shall pay MRx the amount set forth in Exhibit B.

C. Specialty Drugs

1. Services. MRx shall maintain, operate and/or provide a Specialty Pharmacy that dispenses Specialty Drugs to Members through the U.S. Mail or other carrier. The terms of Schedule A, Section 2 above shall also apply to the Specialty Pharmacy, except as otherwise provided in this Agreement.
2. Pricing. Notwithstanding anything to the contrary in this Agreement, including Section 2 above, the pricing terms applicable to Specialty Drugs dispensed through the Specialty Pharmacy are set forth in Exhibit C. Account shall pay for Specialty Drugs dispensed through a Retail Pharmacy according to the terms set forth in Exhibit C. Account acknowledges that the discounted Average Wholesale Price ("AWP") rate does not apply to certain special handling or high-technology products listed on Exhibit C of this Agreement, which may change from time to time.

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D. Payment of Claims and Reimbursement of Participating Pharmacies.

1. **Provider Submitted Point of Sale (“POS”) Claims.** Claims are submitted by Participating Pharmacies to MRx or its designee via its designated on-line electronic claims processing system (or as otherwise permitted under the Participating Pharmacy agreement) and processed in accordance with this Agreement as follows:
 - a. MRx shall enter the Plan information into the designated on-line electronic processing system to allow MRx or its designee to perform automated Claims processing services in accordance with this Agreement, including information regarding deductibles, coinsurance co-payments, Member or MRx out-of-pocket maximums, benefit maximums, and other features of the Plan to be used in processing Claims (collectively, “Processing Parameters”).
 - b. Participating Pharmacies will be instructed to transmit certain prescription, eligibility, and Plan information to MRx or its designee when the Member presents a Plan identification card, and if the on-line electronic processing system is unavailable, as soon as possible after the system becomes available. If the on-line electronic processing system is unavailable, the Participating Pharmacies may submit the prescription at a later time and/or call the customer service center to verify eligibility and reimbursement.
 - c. System edits will be performed and the result transmitted to such Participating Pharmacy including the Claim status, the applicable reimbursement amount, the co-pay/coinsurance/deductible amount (if applicable), and any applicable DUR (as defined below) or other messages.
 - d. The Participating Pharmacy will be instructed to collect the co-payment/coinsurance/deductible (if applicable), and MRx or its designee will pay the Participating Pharmacy the balance, if any, of the agreed upon reimbursement amount contained in the Participating Pharmacy agreement between such Participating Pharmacy and MRx or its designee. If the applicable co-pay/coinsurance/deductible is greater than the usual and customary amount, MRx or its designee will instruct the Participating Pharmacy to collect the usual and customary amount from the Member.
2. **System Edits.** For Claims submitted, except as otherwise provided herein, the following claim edits will be performed as well as such other claim edits as MRx and Account shall deem proper from time to time:
 - a. Member Eligibility
 - b. Ineligible Drug
 - c. Duplicate Prescriptions
 - d. Incorrect price
 - e. Plan Eligibility
 - f. Missing/Invalid Data
 - g. Managed Access (if applicable)
 - h. DUR (if applicable)
 - i. Stale Date
 - j. Claim Cost
 - k. Excluded Drug

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E. Manufacturer Rebates.

Manufacturer rebates from drug manufacturers may be received by MRx as set forth in the Agreement.

Account acknowledges that its receipt of manufacturer rebates is subject to this Agreement and Account's use of the standard MRx Formulary. In the event Account adopts a formulary other than the Formulary provided under this Agreement, then the parties agree that any amounts may be jeopardized.

F. Customer Service.

MRx or its designee shall make available to Participating Pharmacies a toll free customer service number that can be accessed during hours of operation. The hours of operation may be modified from time to time as long as the needs of Account are reasonably met.

MRx or its designee will handle Member calls related to mail service and calls from Participating Pharmacies regarding Member Claims adjudication.

G. Eligibility Services.

1. Identification Cards. All identification cards for Members accessing Services hereunder shall include the MRx and Subcontractor name, logo, BIN number and PCN number.
2. Eligibility File. Based upon the information provided by Account or Account's TPA to MRx, an eligibility file shall be maintained identifying current Members and certain other Enrollment Information regarding such Members.

II. MRx can, and in some instances will, provide the following Value-Added Services to Account, as mutually agreed to by the parties.

A. Drug Utilization Review ("DUR")

1. Prospective DUR Services. MRx or its designee may provide prospective DUR services, in which Participating Pharmacies and certain physicians are provided with educational materials and programs regarding topics such as appropriate drug therapy duration, appropriate "dispense as written" frequencies, optimal generic prescribing, appropriate prescribing of selected drug groups, Formulary compliance issues, and such other topics as may be identified by MRx.
2. Concurrent DUR Services. MRx or its designee may provide its automated concurrent DUR services for Point of Service (POS) transactions. The concurrent DUR services currently include edits relating to excessive utilization, drug-drug interactions, therapeutic duplications, insufficient drug doses, excessive drug doses, drug-age conflicts, drug-pregnancy advisories, drug-disease contra-indications, late refills, and controlled substance issues and other edits that may be developed from time to time.

If a POS transaction fails the excessive utilization edit, the pharmacist is sent an on-line message indicating Claim denial and an "Excessive Utilization" alert.

In certain instances, a Claim that is denied for excessive utilization may actually represent appropriate drug therapy as determined by the applicable physician or pharmacist in his or her professional judgment. In these instances, the pharmacist will exercise his or her professional judgment to either:

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(1) dispense the prescribed drug(s) and instruct the Member to submit a direct Claim to MRx for reimbursement or (2) call to request an override of the denied Claim.

3. Retrospective DUR Services.

a. Description of Service. MRx or its designee may make a Retrospective Drug Utilization Review program available to Account, as modified from time to time.

Pursuant to the Retrospective DUR Program, Members' prescription history information shall be evaluated. Such information shall be examined for the purpose of taking action to promote the Members' chances for better health and/or decrease the total cost of health care, including identifying and questioning suspect utilization of drugs, inappropriate prescribing practices, use of multiple physicians and pharmacies, overuse of controlled substance, drug compliance and other specific clinical issues.

b. Data Evaluation Use. By performing the above function, Retrospective DUR Program pharmacists shall notify and educate Members, Participating Pharmacies and prescribers about a number of issues that may promote the Members' health and/or decrease the cost of health care for that Member. These issues may include non-Formulary to Formulary drug conversion opportunities, drug duplication, drug-disease interactions and contra-indications, drug over-utilization including controlled substance misuse, drug underutilization, and noncompliance with prescribers' directions.

4. Limitations. The information generated in connection with DUR services is intended as an economical supplement to, and not a substitute for, the knowledge, expertise, skill, and judgment of physicians, pharmacists, or other health care providers. Pharmacists and prescribers are individually responsible for acting or not acting upon information generated and transmitted through the DUR services, and for performing services in each jurisdiction consistent with the scope of their licenses.

Except as set forth above, in performing DUR services, there is no requirement to deny Claims or require physician, pharmacist, or patient compliance with any norm or suggested drug regimen, or in any way substitute the program pharmacist's judgment for the professional judgment or responsibility of physicians, pharmacists, or other health care professionals.

These DUR services are highly automated, and in some cases without any individual review. Any focused professional review would also be based upon automated analysis of Member's profiles. Therefore, the DUR services are necessarily limited by the amount of patient information available. Meaningful patient information which may not be available, includes but is not limited to, patient diagnoses, utilization of drugs not included in the patients' profile or Claim data. There shall be no obligation to acquire information concerning any patient beyond the information that is included in MRx's Enrollment Information or the Claim data submitted by Participating Pharmacies in connection with the Plan.

DUR databases shall be updated on a reasonable basis to reflect changes in available standards for pharmaceutical prescribing; however, all parties recognize that no database will contain all currently available information on accepted medical practice or prescribing practices.

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B. Prior Authorizations

1. Rejection of Claims Requiring Prior Authorization. Under the Prior Authorization program which may be offered by MRx, for those drug/Member situations, which are identified by MRx and agreed by Account as requiring prior authorization, all Claims submitted will reject unless an authorization record has been entered into the system. The appropriate message will be sent to the submitting pharmacy for each rejected Claim informing the pharmacist that authorization is required.
2. Prior Authorization Determination. When it is determined that a prior authorization should be granted for a drug/Member situation, a prior authorization record will be created for each Member for whom an authorization has been granted. Upon the establishment of prior authorization record for a Member, future Claims for that Member and the specified drug or drug class, as the case may be, will be processed and paid until the expiration of the authorization record.
3. Limitation on Services. Account acknowledges that the Prior Authorization program is intended to provide better management of Account's drug benefits based on objective criteria, the professional judgment of clinical staff and the limited amount of patient information available. MRx or its designee shall not undertake, and is not required hereunder to make diagnoses, or to substitute its judgment for the professional judgment and responsibility of the physician.

C. Maximum Allowable Cost ("MAC")

MRx utilizes a Maximum Allowable Cost pricing schedule ("MAC List") to establish an upper limit reimbursement price for certain multiple-source drugs dispensed under the Plan without regard to the specific drug manufacturer whose product is dispensed. The MAC List shall include multi-source drugs based on their common substitution, bioequivalency rating, and general availability. For purposes of this Agreement and in accordance with industry standards, the Maximum Allowable Cost shall be treated as MRx's confidential and proprietary information and is subject to change from time to time in MRx's sole discretion.

D. Formulary and Rebate Administration

- A. Establishment of Formulary. MRx shall establish and provide a Formulary (the "MRx Standard Formulary") for Account. The drugs included on the MRx Standard Formulary have been evaluated by a Pharmacy and Therapeutics Committee and may change from time to time as a result of a number of factors, including but not limited to medical appropriateness, cost-effectiveness and generic availability. MRx shall work with Account to effect the adoption, distribution, and implementation of such Formulary.
- B. Formulary Programs. MRx may implement its standard formulary management programs, which may include communications with Members, pharmacies, and/or physicians, compliance and/or adherence programs, generic substitution and/or therapeutic interchange programs, financial incentives, and other measures to promote cost effectiveness of the Formulary.
- E. Brand to Generic Conversion. MRx may provide to Account a program by which Members may be converted from a brand name pharmaceutical to a generic pharmaceutical.

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- F. Other Services. Upon request from Account and subject to available resources, MRx may perform the following services for the fees set forth in Exhibit B and Exhibit C attached hereto.
1. Paper Enrollment Submission. MRx will update and maintain Enrollment Information regarding Members submitted by Account or Account's TPA in a manual form (other than tape or telecommunication) from time to time.
 2. Development of Participating Pharmacy, Member and Account communications.
 3. Development of Account-specific software programming for reports and other activities.

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EXHIBIT B
Pricing and Fees

MRx reserves the right to renegotiate in good faith rates, fees, rebates and any guarantees stated herein if membership, utilization, market conditions or legislation varies materially.

ADMINISTRATIVE FEE

Per Paid Claim: \$0.00

Administrative Fee charges apply to all Paid Retail, Mail Order and Specialty Claims. Administrative Fee charges are for all Paid Claims and certain rejected Claims.

RETAIL

Retail Participating Pharmacy. The formula for determining the amount of reimbursement Account shall pay to MRx for a Claim for Covered Pharmaceuticals dispensed to Members consists of an ingredient cost and a dispensing fee per Covered Pharmaceutical dispensed in addition to any Administrative Fees charged. The ingredient cost is based on the lesser of the AWP for such Covered Pharmaceutical minus a percentage discount, submitted ingredient cost, the Usual and Customary Charge, or the applicable (MAC).

1-83 Day Supply

Dispensing Fee per Claim-Brand:	\$1.25
Dispensing Fee per Claim-Generic:	\$1.25
Average Wholesale Price Discount-Brand:	16.25%
Average Wholesale Price Discount-Generic*:	70.00% (overall effective rate)

* Generic discount is an overall estimated effective rate for Claims and the actual discount price may be more or less. Sole-source Generic drug claims will be excluded from the Generic effective discount calculations until such time that at least three (3) manufacturers for the same Generic product enter the market (excluding innovator brand-licensed Generics).

Direct Member and Government reimbursement (DMRs) claims and Compound Prescription Drug Claims are excluded from rates. Member submitted DMRs are paid as specified by the Plan in the Benefit Builder, Government submitted DMRs are pay as submitted or as required by Law. Generic discounts exclude high cost Generic drugs with a monthly cost of at least \$600.

MAIL ORDER

Mail Order Pharmacy. Account shall pay to MRx for a Claim for Covered Pharmaceuticals dispensed to Members through a Mail Order Pharmacy the lesser of the AWP for such Covered Pharmaceutical minus a percentage discount or the applicable (MAC).

Dispensing Fee per Claim-Brand:	\$0.00
Dispensing Fee per Claim-Generic:	\$0.00
Average Wholesale Price Discount-Brand:	23.00%
Average Wholesale Price Discount-Generic*:	70.00%

* Generic discount is an overall estimated effective rate for Claims and the actual discount price may be more or less. Sole-source Generic drug Claims will be excluded from the Generic effective discount calculations until such

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time that at least three (3) manufacturers for the same Generic product enter the market (excluding innovator brand-licensed Generics).

Notwithstanding the foregoing, the minimum charge for any Covered Pharmaceuticals dispensed through a Mail Order Pharmacy shall be \$9.95. This minimum charge is subject to change based on market conditions and mutual agreement of and MRx and Client. Generic discounts exclude high cost Generic drugs with a monthly cost of at least \$600.

Direct Member and Government reimbursement (DMRs) claims and Compound Prescription Drug Claims are excluded from rates. Member submitted DMRs are paid as specified by the Plan in the Benefit Builder; Government submitted DMRs are paid as submitted or as required by Law.

Rates do not include Specialty Drugs and certain non-specialty injectable drugs as listed in the Specialty Drug List referenced in Exhibit C.

REBATES

No rebates will be paid to Account.

ADDITIONAL ADMINISTRATIVE SERVICES

Fee

Direct Member Reimbursement/Paper Claims (includes Member and Government submitted paper Claims)	\$2.00 per Claim
Non-Standard/Manual Eligibility	\$2.00 per Member record
Member Packets	
- Mailed Directly to Member	\$1.25 per member address + postage
- ID Cards	\$0.25 per card RX only
	\$0.50 per card Rx + Medical
Account Specific Programming	\$150.00 per hour
Prior Authorization:	Included
Prospective Review	Included
Concurrent Review	Included
Retrospective DUR	Included
E-prescribing	\$0.18 per eligibility look-up
Appeals (if included):	Non-Urgent: \$460.00 per case
	Urgent: \$600.00 per case
Other Account Services and Products	Negotiated Charges

Account shall be responsible for any postage costs and other mailing and handling-related costs (including, without limitation, mailing charges associated with Requests for Information) incurred by MRx in connection with the provision of these Additional Services. Charges for PBM Services not identified herein will be quoted upon request.

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EXHIBIT C
Specialty Drugs
Special Handling and High Technology Items
 (if included in Plan design)

This section applies only to drugs purchased through MRx's affiliate or Subcontractor Specialty Pharmacy.

All Specialty Drugs are selected in accordance with criteria established by MRx. The inclusion or exclusion of drugs and the discounted rate are subject to change from time to time. Discount rates vary by drug. At this time the discount price on Specialty Drugs ranges between 0.0% and 93.0% depending upon the drug. A complete current Specialty Drug List will be provided upon request.

A dispensing fee of \$0.00 per Claim will apply to most Specialty Drug Claims. Certain Specialty Drugs, such as vaccines and those with restricted distribution channels, may include a higher dispensing fee, and may also include a per diem equipment charge. For these Specialty Drugs, the contracted discount, dispensing fee and per diem equipment fees will pass-through to Account.

Due to limited distribution agreements conducted by manufacturers, a small number of Specialty Drugs are not available at the exclusive pricing schedule.

In the event Specialty Drugs are dispensed at MRx's contracted Mail Order Pharmacy rather than through the contracted Specialty Pharmacy, such drugs shall pay at the specialty rates set forth in this Agreement, not the mail order rates. Some Specialty Drugs may also be available through Retail. Specialty Drugs purchased through Retail will be paid at the applicable Retail rate shown in Exhibit B.

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RESOLUTION NO. 262-11

WHEREAS, the City is self-insured for Health Insurance; and

WHEREAS, the City has received a proposal from Partners RX to provide a specialized Pharmacy Management Program; and

WHEREAS, contracting with Partners RX will allow the City of Opelika and its employees to benefit from the utilization of a prescription drug card.

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

1. That in order to provide a prescription drug card for employees of the City of Opelika, the City shall enter into a written contract with Partners RX.
2. That the Pharmacy Management Program with Partners RX shall include terms and conditions as outlined in "Exhibit A"
3. That the Mayor is hereby authorized and directed to execute on behalf of the City, a contract with Partners RX, attached as "Exhibit B"

APPROVED AND ADOPTED this the 15th day of November, 2011


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

ATTEST:


Robert G. Shuman, CMC
City Clerk – Treasurer

RESOLUTION NO. 303-15

Reorganization, New Job Classifications - Pur-Rev, PLanning.

RESOLUTION NO. _____

**RESOLUTION AMENDING THE ORGANIZATIONAL CHARTS
OF THE PURCHASING-REVENUE DEPARTMENT AND THE
PLANNING DEPARTMENT OF THE CITY OF OPELIKA, ALABAMA**

WHEREAS, the Mayor has submitted his recommendation to the City Council to modify the organizational charts of the Purchasing-Revenue Department and the Planning Department of the City of Opelika; and

WHEREAS, the City Council hereby finds and determines that said plan of reorganization is in the best interest of the City and its citizens.

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

1. That the new job classification of Buyer I at pay grade 12 in the Purchasing-Revenue Department is hereby approved and authorized by the City Council. The job description of Buyer I, attached hereto as Exhibit "A" and incorporated herein by reference, is hereby approved. The new position of Buyer I shall be filled by transferring the person in the position of Administrative Assistant in the Purchasing-Revenue Department to the new position of Buyer I. The position of Administrative Assistant in the Purchasing-Revenue Department is hereby eliminated.

2. That the new job classification of Buyer II at pay grade 17 in the Purchasing-Revenue Department is hereby approved and authorized by the City Council. The job description of Buyer II, attached hereto as Exhibit "B" and incorporated herein by reference, is hereby approved. The new position of Buyer II shall be filled by transferring the person in the position of Buyer in the Purchasing-Revenue Department to the new position of Buyer II. The position of Buyer in the Purchasing-Revenue Department is hereby eliminated.

3. That two new positions of Code Compliance Officer at pay grade 17 in the Purchasing-Revenue Department are hereby approved and authorized by the City Council. The number of authorized positions in the job classification of Code Compliance Officer is two (2). The job description of Code Compliance Officer, attached hereto as Exhibit "C" and incorporated herein by reference, is hereby approved. The two positions of Code Compliance Officer shall be filled by transferring the person in the position of License and Tax Examiner in the Purchasing-Revenue Department to one of the vacant positions of Code Compliance Officer and by transferring the person in the position of Code Enforcement Officer in the Planning Department to one of the vacant positions of Code Compliance Officer. The position of License and Tax Examiner in the Purchasing-Revenue Department is hereby eliminated. The position of Code Enforcement Officer in the Planning Department is hereby eliminated.

4. That the Purchasing-Revenue Manager is hereby authorized and directed to modify the organizational chart of the Purchasing-Revenue Department to implement the changes in personnel as contemplated by this Resolution.

5. That the Planning Director is hereby authorized and directed to modify the organizational chart of the Planning Department to implement the changes in personnel as contemplated by this Resolution.

6. That the Mayor and the Controller are hereby authorized and directed to transfer the sum of \$47,835.06 from the Salaries and Wages Account of the Planning Department to the Salaries and Wages Account of the Purchasing-Revenue Department. The Controller is authorized to make the appropriate budget adjustments to implement this Resolution. Any deficiency in the Salaries and Wages Account of the Purchasing-Revenue Department resulting from the reorganization approved herein shall be paid from the Unassigned Fund Balance Account.

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

ADOPTED AND APPROVED this the _____ day of _____, 2015.

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

ATTEST:

CITY CLERK

EXHIBIT A

CITY OF OPELIKA POSITION DESCRIPTION

TITLE: Buyer I

GENERAL DESCRIPTION

The essential functions of the position within the organization is to provide administrative and technical support for purchasing of the City. This position is responsible for the procurement of services, materials and supplies for the operation of the City.

PRIMARY DUTIES: *This list represents the essential tasks performed by the position. Employees may be assigned additional duties by management as required.*

Performs clerical tasks, such as data entry, preparing spreadsheets or correspondence, opening and distributing mail, telephoning, faxing, or photocopying and scanning. Prepares and types documents such as correspondence, memoranda, bids, council bid packages, reports, spreadsheets, e-mail and fax, and work orders. Prepares meeting agenda packages.

Assists the Buyer II with the processing of requisitions and purchase orders.

Prepares advertisements for the newspaper for services and materials needed by the City.

Maintains contract and vendor records.

Performs accounting tasks such as processing receivables and payables, preparing bank deposits, creating purchase orders, handling petty cash, reconciling financial accounts, or monitoring expenditures; collects and processes fees and/or payments for service.

Handles and maintain quotes for city departments.

Compiles information/data and assists in preparation of departmental budget; reconciles expenses.

Organizes and maintains files and records; destroys records as appropriate; performs data entry of specific departmental information.

DATA RESPONSIBILITY: *Data refers to information, knowledge, and conceptions obtained by observation, investigation, interpretation, visualization, and mental creation. Data are intangible and include numbers, words, symbols, ideas, concepts, and oral verbalizations.*

Computes or performs arithmetic operations.

PEOPLE RESPONSIBILITY: *People refers to individuals who have contact with or are influenced by the position.*

Provides assistance to people to achieve task completion.

INVOLVEMENT WITH THINGS: *Things refers to inanimate objects such as substances, materials, machines, tools, equipment, work aids, or products. A thing is tangible and has shape, form, and other physical characteristics.*

Handles or uses machines, tools, equipment or work aids involving some latitude for judgment regarding attainment of a standard or in selecting appropriate items, such as computers, peripherals, or software programs such as word processing, spreadsheets or custom applications.

Buyer I

ASSETS RESPONSIBILITY: *Assets responsibility refers to the responsibility for achieving economies or preventing loss within the organization.*

Requires some responsibility for achieving minor economies and/or preventing minor losses through the handling of or accounting for materials, supplies, or small amounts of money.

MATHEMATICAL REQUIREMENTS: *Mathematics deals with quantities, magnitudes, and forms and their relationships and attributes by the use of numbers and symbols.*

Uses addition, subtraction, multiplication, and division; may compute ratios, rates, and percents.

COMMUNICATIONS REQUIREMENTS: *Communications involves the ability to read, write, and speak.*

Reads journals and manuals; composes specialized reports and business letters using proper format and grammar; speaks to groups of coworkers and people outside the organization.

COMPLEXITY OF WORK: *Complexity of work addresses the analysis, initiative, ingenuity, creativity, and concentration required by the position and the presence of any unusual pressures.*

Performs skilled work involving rules/systems with almost constant problem solving; requires normal attention with short periods of concentration for accurate results and occasional exposure to unusual pressure.

JUDGMENT REQUIREMENTS: *Judgement requirements refers to the frequency and complexity of judgments and decisions given the stability of the work environment, the nature and type of guidance, and the breadth of impact of the judgments and decisions.*

Requires responsibility for the actions of City customers or others in the general public. Works in a moderately fluid environment with guidelines and rules, but frequent varies from the routine.

IMPACT OF ERRORS: *Impact of decisions refers to consequences such as damage to property, loss of data or property, exposure of the organization to legal liability, or injury or death for individuals.*

Makes decisions with minor impact - affects only those in immediate work area.

EDUCATION REQUIREMENTS: *Education requirements refers to job specific training and education required for entry into the position.*

Requires high school diploma or GED, and the equivalent of one year of college or specialized vocational training in business management, computer technology, secretarial skills, or a closely related field.

LICENSES, CERTIFICATIONS, AND REGISTRATIONS REQUIRED: *Licenses, certifications, and registrations refers to professional, state, or federal licenses, certifications, or registrations required to enter the position.*

Requires none.

EXPERIENCE REQUIREMENTS: *Experience refers to the amount of work experience that is required for entry into the position that would result in reasonable expectation that the person can perform the tasks required by the position.*

Requires one year of related experience.

Updated November 2011

Buyer I

PHYSICAL DEMANDS: *Physical demands refers to the requirements for physical exertion and coordination of limb and body movement.*

Requires sedentary work involving standing or walking for brief periods, exerting up to 10 pounds of force on a regular basis, and moderate dexterity in operating office equipment.

SAFETY OF OTHERS: *Safety of others refers to the responsibility for the safety of others, either inherent in the job or to assure the safety of the general public.*

Requires no responsibility for the safety and health of others.

UNAVOIDABLE HAZARDS: *Unavoidable hazards refers to unusual conditions in the work environment that may cause illness or injury.*

The position is not exposed to unusual environmental hazards.

SENSORY (ADA) REQUIREMENTS: *Sensory requirements refers to hearing, sight, touch, taste, and smell necessary to perform the tasks required by the position efficiently.*

The position requires normal visual acuity and field of vision, hearing, and speaking.

AMERICANS WITH DISABILITIES ACT COMPLIANCE

The City of Opelika is an Equal Opportunity Employer. ADA requires the City to provide adequate accommodations to qualified persons with disabilities. Prospective and current employees are encouraged to discuss ADA accommodations with management.

Exhibit B

CITY OF OPELIKA POSITION DESCRIPTION

TITLE: Buyer II

GENERAL DESCRIPTION

The essential function of this position within the organization is to assist the Purchasing Agent by ensuring that the processing of purchase request are in full compliance with the purchasing laws of the State of Alabama. The position is responsible for maintaining and monitoring inventory, preparing purchase orders, bidding packages, reviewing and evaluating product lines, and resolving complaints with City departments and vendors. The position works under general supervision according to some procedures; decides how and when to complete tasks. Performs duties of the Purchasing Agent in the absence of the Purchasing Agent.

PRIMARY DUTIES: *This list represents the essential tasks performed by this position. Employees may be assigned additional duties by management as required.*

Processes requisitions from City departments and procures supplies, equipment and services; checks for quality, availability, and payment terms; reviews and evaluates quotes.

Prepare and review purchase orders for conformity to purchasing laws or procedures

Develop, implement, and monitor all key functions related to inventory transactions to assure that they are accurate and timely

Prepares specifications for items or services to bid.

Provides direction to purchasing employees in the absence of the Purchasing Agent.

Attends staff and other professional meetings to exchange information; attends in-service training and technical or professional classes or seminars to improve technical or professional skills.

Resolves complaints with City departments and vendors.

DATA RESPONSIBILITY: *Data refers to information, knowledge, and conceptions obtained by observation, investigation, interpretation, visualization, and mental creation. Data are intangible and include numbers, words, symbols, ideas, concepts, and oral verbalizations.*

Compiles, examines, or evaluates data or information and possibly recommends action based on results.

PEOPLE RESPONSIBILITY: *People refers to individuals who have contact with or are influenced by the position.*

Provides assistance to people to achieve task completion; may instruct or assign duties to coworkers.

INVOLVEMENT WITH THINGS: *Things refers to inanimate objects such as substances, materials, machines, tools, equipment, work aids, or products. A thing is tangible and has shape, form, and other physical characteristics.*

Handles or uses machines, tools, equipment or work aids involving some latitude for judgment regarding attainment of a standard or in selecting appropriate items such as computers, fax machine or copier.

Buyer II

ASSETS RESPONSIBILITY: *Assets responsibility refers to the responsibility for achieving economies or preventing loss within the organization.*

Requires responsibility and opportunity for achieving considerable economies and/or preventing considerable losses through the handling of very large amounts of money.

MATHEMATICAL REQUIREMENTS: *Mathematics deals with quantities, magnitudes, and forms and their relationships and attributes by the use of numbers and symbols.*

Uses addition, subtraction, multiplication, and division; may compute ratios, rates, and percents.

COMMUNICATIONS REQUIREMENTS: *Communications involves the ability to read, write, and speak.*

Reads technical instructions, charts, and/or procedures manuals; composes routine reports and completes job forms; speaks compound sentences using standard grammar.

COMPLEXITY OF WORK: *Complexity of work addresses the analysis, initiative, ingenuity, creativity, and concentration required by the position and the presence of any unusual pressures.*

Performs skilled work involving rules/systems with almost constant problem solving; requires normal attention with short periods of concentration for accurate results and occasional exposure to unusual pressure.

JUDGMENT REQUIREMENTS: *Judgement requirements refers to the frequency and complexity of judgments and decisions given the stability of the work environment, the nature and type of guidance, and the breadth of impact of the judgments and decisions.*

Requires responsibility for the actions of others, requiring almost constant decisions affecting co-workers or others in the general public; works in a moderately fluid environment with guidelines and rules, but frequent variations from the routine.

IMPACT OF ERRORS: *Impact of decisions refers to consequences such as damage to property, loss of data or property, exposure of the organization to legal liability, or injury or death for individuals.*

Makes decisions with minor impact - affects only those in immediate work area.

EDUCATION REQUIREMENTS: *Education requirements refers to job specific training and education required for entry into the position.*

Associate's degree in business management, accounting, computer technology, or a closely related field. Education and/or experience equivalent to a Associate's degree may be considered by the hiring authority

LICENSES, CERTIFICATIONS, AND REGISTRATIONS REQUIRED: *Licenses, certifications, and registrations refers to professional, state, or federal licenses, certifications, or registrations required to enter the position.*

Requires State of Alabama Driver's License.

EXPERIENCE REQUIREMENTS: *Experience refers to the amount of work experience that is required for entry into the position that would result in reasonable expectation that the person can perform the tasks required by the position.*

Updated November 2011

Buyer II

Requires four years of related experience.

PHYSICAL DEMANDS: *Physical demands refers to the requirements for physical exertion and coordination of limb and body movement.*

Requires sedentary work involving standing or walking for brief periods, exerting up to 10 pounds of force on a regular basis, and some dexterity in operating machines, tools, or office equipment.

SAFETY OF OTHERS: *Safety of others refers to the responsibility for the safety of others, either inherent in the job or to assure the safety of the general public.*

Requires no responsibility for the safety and health of others.

UNAVOIDABLE HAZARDS: *Unavoidable hazards refers to unusual conditions in the work environment that may cause illness or injury.*

The position is exposed to extreme heat and/or cold, wet/humid conditions, bright and/or dim light, dust or pollen, and traffic.

SENSORY (ADA) REQUIREMENTS: *Sensory requirements refers to hearing, sight, touch, taste, and smell necessary to perform the tasks required by the position efficiently.*

The position requires normal visual acuity and field of vision, hearing, speaking, color perception, sense of smell, and texture perception.

AMERICANS WITH DISABILITIES ACT COMPLIANCE

The City of Opelika is an Equal Opportunity Employer. ADA requires the City to provide adequate accommodations to qualified persons with disabilities. Prospective and current employees are encouraged to discuss ADA accommodations with management.

Updated November 2011

EXHIBIT C
CITY OF OPELIKA
POSITION DESCRIPTION

TITLE: Codes Compliance Officer

GENERAL DESCRIPTION

The essential function of the position within the organization is to enforce City of Opelika revenue laws and ordinances and to ensure code compliance. The position is responsible for examining and evaluating business licenses, permits and taxes for compliance; serving as backup for other departmental personnel; assisting with audits and prosecution for unpaid taxes; and related clerical tasks. This position also is responsible for related inspections, processing license permit applications, and preparing reports. The position works under general supervision independently developing work methods and sequences.

PRIMARY DUTIES: *This list represents the essential tasks performed by this position. Employees may be assigned additional duties by management as required.*

Patrols streets throughout the City to inspect construction and job sites to check to make sure contractors have the appropriate business licenses.

Calls on City businesses to check for violations of business licenses, occupational and sales taxes, delivery licenses, or building permits.

Examines and evaluates business licenses, permits, and taxes paid to the City to ensure compliance with City laws and ordinances.

Provides suggestions on corrective action to non-compliant business owners, issues citations, or initiates court action as required; performs follow-up evaluations to ensure compliance.

Checks business classifications for possible non-compliant business activity.

Makes departmental bank deposits and gets change; collects on unpaid bills and bad checks from City businesses.

Assists and train Revenue Assistants as needed in collecting fees for business licenses, permits, and tax payments.

Assists with audits for unpaid taxes, providing necessary information/data.

Appears and testifies in Municipal Court regarding cases in violation of City ordinances.

Stays abreast of changes in local, state and federal laws, ordinances, and procedures pertaining to the area of responsibility.

Process alcoholic beverage application requests for City Council Approval.

Process refund requests.

Performs inspections, investigations, and enforces compliance with applicable City ordinances and codes, and the Zoning Ordinance, Chapter 14 License and Taxation.

Enforces Weed Ordinance and works with weed abatement contractor to ensure compliance with the ordinance. Determines area to be cut and negotiates cutting costs with contractor.

Municipal Codes Compliance Officer

Checks for compliance for conditions on conditional use permits, as directed by Planning Department, resolves non-compliance issues, and/or issues warning letters and citations to violators; performs follow-up inspections to ensure implementation of corrective measures.

Inspects permitted and non-permitted installed signage within the City limits for ordinance compliance; takes corrective action as required, including removal of signage.

Performs clerical tasks such as preparing citations or correspondence, telephoning, maintaining records, or prepare and disburse routine reports to city departments.

DATA RESPONSIBILITY: *Data refers to information, knowledge, and conceptions obtained by observation, investigation, interpretation, visualization, and mental creation. Data are intangible and include numbers, words, symbols, ideas, concepts, and oral verbalizations.*

Collects, classifies, and formats data or information.

PEOPLE RESPONSIBILITY: *People refers to individuals who have contact with or are influenced by the position.*

Persuades or influences others in favor of a service, course of action, or point of view.

INVOLVEMENT WITH THINGS: *Things refers to inanimate objects such as substances, materials, machines, tools, equipment, work aids, or products. A thing is tangible and has shape, form, and other physical characteristics.*

Handles or uses machines, tools, equipment or work aids involving some latitude for judgment regarding attainment of a standard or in selecting appropriate items such as standard office equipment.

ASSETS RESPONSIBILITY: *Assets responsibility refers to the responsibility for achieving economies or preventing loss within the organization.*

Requires responsibility and opportunity for achieving moderate economies and/or preventing moderate losses through the management or handling of supplies of high value or moderate amounts of money.

MATHEMATICAL REQUIREMENTS: *Mathematics deals with quantities, magnitudes, and forms and their relationships and attributes by the use of numbers and symbols.*

Uses basic algebra calculating variables and formulas, and/or basic geometry, calculating plane and solid figures; may compute discounts, interest, ratios and proportions, and percentages.

COMMUNICATIONS REQUIREMENTS: *Communications involves the ability to read, write, and speak.*

Reads professional publications; composes reports; speaks formally to groups outside the organization.

COMPLEXITY OF WORK: *Complexity of work addresses the analysis, initiative, ingenuity, creativity, and concentration required by the position and the presence of any unusual pressures.*

Performs coordinating work involving guidelines and rules with constant problem solving; requires continuous, close attention for accurate results or frequent exposure to unusual pressure.

JUDGMENT REQUIREMENTS: *Judgement requirements refers to the frequency and complexity of judgments and decisions given the stability of the work environment, the nature and type of guidance, and the breadth of impact of the judgments and decisions.*

Created September 2015

Municipal Codes Compliance Officer

Requires decision-making as a major part of the job, affecting a major segment of the organization and the general public; works in a dynamic environment with responsibility for developing policies and practices.

IMPACT OF ERRORS: *Impact of decisions refers to consequences such as damage to property, loss of data or property, exposure of the organization to legal liability, or injury or death for individuals.*

Makes decisions with serious impact - affects work unit and may affect other units or citizens.

EDUCATION REQUIREMENTS: *Education requirements refers to job specific training and education required for entry into the position.*

Requires associate's degree or the equivalent of two years of college or specialized vocational training in revenue, business administration, ordinances, tax laws, or a closely related field as determined by the hiring authority.

LICENSES, CERTIFICATIONS, AND REGISTRATIONS REQUIRED: *Licenses, certifications, and registrations refers to professional, state, or federal licenses, certifications, or registrations required to enter the position.*

Requires State of Alabama Driver's License.

EXPERIENCE REQUIREMENTS: *Experience refers to the amount of work experience that is required for entry into the position that would result in reasonable expectation that the person can perform the tasks required by the position.*

Requires three years of related revenue, tax collections, codes enforcement, and/or related experience as determined by the hiring authority.

PHYSICAL DEMANDS: *Physical demands refers to the requirements for physical exertion and coordination of limb and body movement.*

Requires light work involving standing or walking some of the time, exerting up to 20 pounds of force on a regular basis, and moderate dexterity in operating machinery, tools, or office equipment.

SAFETY OF OTHERS: *Safety of others refers to the responsibility for the safety of others, either inherent in the job or to assure the safety of the general public.*

Requires some responsibility for safety and health of others and/or for occasional enforcement of the standards of public safety or health.

UNAVOIDABLE HAZARDS: *Unavoidable hazards refers to unusual conditions in the work environment that may cause illness or injury.*

The position is exposed to extreme heat and/or cold, wet/humid conditions, bright and/or dim light, dust or pollen, and traffic.

SENSORY (ADA) REQUIREMENTS: *Sensory requirements refers to hearing, sight, touch, taste, and smell necessary to perform the tasks required by the position efficiently.*

The position requires normal visual acuity and field of vision, hearing, and speaking.

AMERICANS WITH DISABILITIES ACT COMPLIANCE

Created September 2015

RESOLUTION NO. 304-15

Microsoft Enterprise Agreement - Amendment**RESOLUTION NO. _____**

WHEREAS, the City Council awarded to SHI International Corp. a three (3) year contract for the purchase of Microsoft software for its workstations and servers using State Contract #T497: Contract line #4012464 on Resolution #288-15 approved by Council on October 20, 2015; and

WHEREAS, Resolution #288-15 needs amending because the City was misquoted on the original agreement; and

WHEREAS, Resolution #288-15 was approved at \$111,768.04 per year.

WHEREAS, the contract signed under Resolution No. 288-15 is still valid; and this agreement is in compliance with State Contract #T497: Contract line #4012464;

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

1. That Resolution #288-15 be amended and replaced with this Resolution.
2. That the Contract be awarded to SHI International Corp. using State of Alabama Contract #T497; Contract line #4012464.
3. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order SHI International Corp. in the amount of \$125,051.04 each year for a total amount of \$375,153.12.
4. That the Mayor be authorized to execute all documents pertaining to this

Contract.

5. That the Controller be authorized to adjust the budget as necessary for this purchase.

APPROVED AND ADOPTED this the ____ day of _____ 2015.

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

ATTEST:

Robert G. Shuman
City Clerk - Treasurer



Pricing Proposal
 Quotation #: 10378041
 Created On: 10/2/2015
 Valid Until: 11/30/2015

City of Opelika AL

Stephen Dawe

204 South 7th Street
 Opelika, AL 36801
 UNITED STATES
 Phone: (334) 705-5140
 Fax:
 Email: SDawe@ci.opelika.al.us

Inside Account Manager

Shaina Chinchilla

290 Davidson Avenue
 Somerset, NJ 08873
 Phone: 800-543-0432
 Fax: 732-868-6055
 Email: Shaina_Chinchilla@shi.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
1 CISTd ALNG LicSAPk MVL woWinSvrLic 2Proc Microsoft - Part#: YJD-01206	14	\$465.15	\$6,512.10
2 CISDataCtr ALNG SA MVL 2Proc Microsoft - Part#: FUD-00938	4	\$1,353.90	\$5,415.60
3 VisioPro ALNG SA MVL Microsoft - Part#: D87-01159 Note: With 3 TU	11	\$93.03	\$1,023.33
4 WinRmtDsktpSrvcsCAL ALNG SA MVL DvcCAL Microsoft - Part#: 6VC-01253	20	\$21.90	\$438.00
5 WINENT ALNG SA MVL Microsoft - Part#: KV3-00368	305	\$41.07	\$12,526.35
6 CCALBrdgO365FSA Alng MonthlySub Platform Per User Microsoft - Part#: AAA-12417	370	\$15.34	\$5,675.80
7 Prjct ALNG LicSAPk MVL Microsoft - Part#: 076-01776 Note: With 2 TU	2	\$233.77	\$467.54
8 SQLSvrStdCore ALNG LicSAPk MVL 2Lic CoreLic Microsoft - Part#: 7NQ-00302	6	\$1,392.78	\$8,356.68
9 SQLSvrEntCore ALNG SA MVL 2Lic CoreLic Microsoft - Part#: 7JQ-00343	4	\$2,288.91	\$9,155.64
10 Microsoft Office 365 (Plan E3) - Subscription license - 1 user - hosted - EA Subscription - All Languages Microsoft - Part#: AAA-10842	370	\$204.00	\$75,480.00

Subtotal \$125,051.04

Additional Comments

To process your order, you can e-mail your request to alabamateam@shi.com. You can also fax it to 732-868-6055. Please include a contact e-mail address on all orders, as this is required by most vendors.

SHI Fed ID# 22-3009648

SHI is a Certified Minority (Asian-Pacific) Large Account Reseller, specializing in the sale and distribution of government priced software and hardware...including, but not limited to- Microsoft, Symantec, Adobe, Trend Micro, Citrix, Nuance, McAfee, LANDesk, Intel, Cisco, HP, IBM, VMware and more.

The Products offered under this proposal are subject to the SHI Return Policy posted at www.shi.com/returnpolicy, unless there is an existing agreement between SHI and the Customer.

Attachment: SHI Quote-10378041 (304-15 : Microsoft Enterprise Agreement - Amendment)

Justification: Resolution amending resolution 288-15

We have two agreements with Microsoft, one for the Library under educational pricing and one for the City under government pricing. Unfortunately, Microsoft quoted under the wrong pricing mechanism for our City O365 licenses (Line 10 of Quote) in both the original Resolution. The new quote attached to the current resolution.

We wish to rectify this mistake and make our billing and licensing correct.

RESOLUTION NO. 305-15

Engagement Letter with Rogers Towers / Sign Ord.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING ENGAGEMENT LETTER WITH ROGERS TOWERS,
P.A.**

WHEREAS, the recent United States Supreme Court decision in Reed v. Town of Gilbert limits the restrictions that local governments may constitutionally place on the use of signs; and

WHEREAS, the City Council of the City of Opelika, Alabama (the “City Council”) adopted a 90-day moratorium to evaluate the impact of the Reed decision and to make revisions to the City of Opelika’s (the “City”) sign ordinance; and

WHEREAS, the City requires professional assistance in the drafting of new sign regulations; and

WHEREAS, William D. Brinton, a stakeholder with the law firm of Rogers Towers, P.A. possesses the required skills and expertise in the area of sign regulations; and

WHEREAS, a proposed Engagement Letter to be entered into between the City and Rogers Towers, P.A. has been prepared 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 Engagement Letter.

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

1. That the proposed Engagement Letter between the City and Rogers Towers, P.A., 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 the execution and delivery of said Engagement Letter.

2. That the Mayor is hereby authorized and directed to execute and deliver said Engagement Letter 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 Engagement Letter.

4. That all compensation and expenses payable to Rogers Towers, P.A. pursuant to the Engagement Letter shall be paid from the Unassigned Fund Balance.

5. That the Mayor and the Controller are hereby authorized and directed make all necessary budget and accounting entries to carry into effect the intent of this Resolution and the Engagement Letter.

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

ADOPTED AND APPROVED this the _____ day of _____, 2015.

PRESIDENT OF THE CITY COUNCIL
OF THE CITY OF OPELIKA

ATTEST:

CITY CLERK

RESOLUTION NO. 306-15

Special Appropriation to Main Street for Christmas in a RR Town.**RESOLUTION NO. _____**

WHEREAS, Opelika City Council and Mayor, Gary Fuller appreciates and fully supports

the Opelika Main Street with an annual appropriation; and

WHEREAS, Opelika Mainstreet has the need for additional funds to assist in covering expenses for the 2015 Christmas in a Railroad Town event, and

WHEREAS, Ward 1 President Pro-tem Patricia Jones, Ward 2 Councilman Larry Gray, Ward 3 Councilman Dozier Smith T, Ward 4 Council President Eddie Smith and Ward 5 Councilman David Canon would like to use their discretionary funds to assist in covering the expenses associated with Opelika's Christmas in a Railroad Town.

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

1. The City Council approves a special appropriation of \$1,250.00 to Opelika Main Street with said funds designated to assist in covering the expenses involved with the 2015 Christmas in a Railroad Town event.
2. The Mayor and the Controller is hereby authorized and directed to move the funds as detailed below to the appropriate account:

Ward 1	Prior year reserve discretionary fund	\$250.00
Ward 2	Prior year reserve discretionary fund	\$250.00
Ward 3	Prior year reserve discretionary fund	\$250.00
Ward 4	Prior year reserve discretionary fund	\$250.00
Ward 5	Prior year reserve discretionary fund	\$250.00

3. That the City Council hereby declares and determines that said expenditure of these

public funds will serve a public purpose for the City of Opelika.

4. The City Clerk-Treasurer is hereby authorized and directed to process the appropriate documents so a check for \$1250.00 can be prepared and delivered payable to the Opelika Main Street and earmarked for Christmas in a Railroad Town.

ADOPTED and APPROVED this the _____ day of _____, 2015.

C. E. "Eddie" Smith, Jr.

President City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer

ORDINANCE NO. 126-15-ORD

Amend City Code, Add Article X & XI, Procedures for Wrecker Services - OPD - 2Nd Reading.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE CITY CODE BY ADDING ARTICLES X AND XI
TO CHAPTER 26; ESTABLISHING PROCEDURES FOR WRECKER SERVICES
PARTICIPATION ON CITY'S ROTATION LOG AND REGULATING
NONCONSENSUAL TOWING AND STORAGE OF MOTOR VEHICLES**

BE IT ORDAINED by the City Council (the "Council") of the City of Opelika, Alabama (the "City") as follows:

Section 1. **Amendment; adding Article X to Chapter 26 of the Code of Ordinances.**
That Chapter 26 of the *Code of Ordinances* of the City of Opelika, Alabama, is hereby amended by adding an article to be numbered X, which said article shall read as follows:

**ARTICLE X. PROCEDURES FOR WRECKER SERVICES
PARTICIPATION ON CITY'S ROTATION LOG**

Sec. 26-300. Definitions.

For the purpose of this article, the following terms shall have the meanings ascribed to them unless the context clearly indicates otherwise:

- (a) *Applicant* means the operator of a wrecker service that desires to participate in the rotation log by making application for the same.
- (b) *Call* or *dispatch* means a request for wrecker services by an operator on the rotation log of the department resulting in an operator being required to perform wrecker services pursuant to the provisions hereof.
- (c) *Chief of Police* shall refer to the chief of the city police department or his/her designee.
- (d) *City* means the City of Opelika or any department thereof.
- (e) *Department* means the Opelika Police Department, its chief or representative.

(f) *Large wreckers* shall be classified as any of the following types of wreckers: Tandem dual wheel or tandem rear end wreckers, or twin booms with factory rated or tested lifting capacity of 12.5 tons or over per drum and per winch and per winch line, with dual drum capacity, hydraulic or power take-off driven, and shall be equipped with dual rear twin-screw axles, and shall be equipped with quick air couplings for towing vehicles with air brakes, and shall be utilized to tow any vehicle having a gross vehicle weight exceeding 10,000 pounds, or any vehicle having dual rear axles or any tractor-trailer combination. The wrecker company shall provide documentation of lifting capacity from the factory or qualified testing facility.

(g) *Operator* means any person, firm or corporation owning or operating a duly licensed wrecker service that is currently listed as an authorized participant on the rotation log, including employees and drivers.

(h) *Police officer* means any city police officer.

(i) *Rotation log* means a sequential list, as maintained by the department, of those operators of wrecker services duly qualified and authorized pursuant to the provisions of this article to receive and respond to calls from the department, when the vehicle owner/operator has not or cannot express a preference or consent for such services from a specific operator or towing company. The rotation log may also be used, at the city's discretion, for wrecker services in regard to city vehicles, although the city reserves the right to request such services from any operator it deems appropriate.

(j) *Services or wrecker services* means:

(1) The towing, lifting, righting, winching, removal or storage of a wrecked, damaged or disabled vehicle which is otherwise incapable of self-propulsion away from the scene of an accident or other traffic event; and

(2) The towing, lifting, righting, winching, removal or storage of a vehicle any time a police officer deems it necessary to protect the public safety and/or personal property by means of a vehicle capable of doing so and meeting the requirements of this article.

(k) *Wrecker*: In addition to the conventional and accepted meaning, such term includes a vehicle meeting the minimum criteria and standards set forth in this article and utilized to provide wrecker services.

Sec. 26-301. - Purpose.

The purpose of this article is to establish acceptable standards and criteria for the provision of nonconsensual wrecker services to the city in the city's capacity as a

market participant by operators participating on the city's rotation log; provided, however, nothing herein shall obligate the city to the use of operators on the rotation log as the sole or exclusive means of providing wrecker services to the city and the city reserves the right to contract independently of the provisions of this article for wrecker services for any particular aspect of municipal operation it deems appropriate.

Wrecker services pursuant to the provisions of this article shall be administered by the department through the department's representative, who shall have authority to promulgate rules and regulations in furtherance and implementation of this article so long as they do not conflict with any provision hereof.

As regards wrecker services to the public, the terms hereof are not intended to and do not relate to the price, route or provision of consensual towing services as preempted by the Interstate Commerce Commission Termination Act (ICCTA) 1975, 49 USC §14501(c)(1). "Consensual towing or wrecker services" are defined as those situations where the vehicle owner expressly requests towing or wrecker services by a specific towing company and enters into a private contract with the towing or wrecker company for services.

Sec. 26-302. - Applications and conditions for participation.

(a) *Written request for participation on the rotation log.* Each applicant desiring to be placed on the rotation log shall file a written application with the department's designated representative.

(b) *Copy of rules and regulations.* The department's representative will furnish each such applicant with a copy of the rules and regulations pertaining to the operation of wreckers on the rotation log.

(c) *Investigation of applicant.* The department's representative will conduct an investigation of the applicant and applicant's wrecker business and determine if the applicant meets all requirements for participation on the rotation log. Applicant must furnish any additional information requested by the department's representative during the investigation.

(d) *Inspection of wreckers and equipment.* The applicant shall present and make available for inspection by the department's representative, all wreckers and equipment that are to be used by the applicant for the provision of wrecker services.

(e) *Certificate of insurance.* The applicant shall furnish the department representative with a certificate of insurance that indicates the policy numbers, policy period and the amount of coverage as required by this article.

(f) *Authorization, placement on list.* When the department's representative is satisfied that the applicant is qualified, he/she will place the applicant on the rotation log and so notify applicant.

(g) *Decal required.* A department decal will be placed on operator's wrecker in the lower right corner of the passenger window to indicate current inspection and eligibility to be on the rotation log.

(h) *Wrecker companies with same owner or majority stockholder considered one company.* Two (2) or more wrecker companies with the same owner/operator as the majority stockholder or partner shall be considered one operator and shall be placed only once on the rotation log.

Sec. 26-303. Operation.

The following conditions shall govern the conduct of operators on the rotation log:

(a) *Police department dispatch necessary, exception.* Except for private request for consensual wrecker services by the vehicle owner, no operator shall proceed to the scene without being dispatched to do so by the police department.

(1) No operator shall solicit business at the scene of an accident.

(2) All operators and drivers shall at all times conduct themselves and wrecker services in a reasonable and safe manner.

(b) *Obedience to traffic laws.* Each wrecker driver shall obey all state and municipal traffic laws when responding to a dispatch for wrecker service.

(c) *Rotation log participation.* Participation in the rotation log system shall be considered personal to the operator thereof and shall constitute authorization only to that definite legal entity operating a bona fide wrecker service and shall not be subject to transfer, nor shall the operator sublet, assign or permit the participation by another in any manner of operator's equipment, wreckers or name on the rotation log. Participation on the rotation log shall not constitute a property interest, but rather is a mere license.

(d) *Submission of daytime and nighttime telephone numbers.* Each operator shall furnish the police department communications center with one telephone number to be used for dispatches during the day and one telephone number to be used for dispatches during the night. Any changes in the aforementioned telephone numbers shall be immediately transmitted to the police department communications center. No pagers or answering machines are permitted as call out numbers.

(e) *Twenty-four-hour service.* Each wrecker operator shall maintain and be fully capable of providing twenty-four-hour, seven-day-a-week wrecker service.

(f) *Availability.* A wrecker operator shall not accept a dispatch for wrecker services from the rotation log unless the operator has a wrecker and the necessary equipment immediately available to perform the requested service.

(g) *Response with own wreckers.* The wrecker operator shall respond to a dispatch with its own wreckers and shall not send another wrecker service in response to a rotation log dispatch. If it appears to the operator, the city or department representative on the scene, that the operator is not capable to perform the required services or needs assistance, the operator may request that another operator be dispatched. Under such circumstances, the operator may designate the operator to provide assistance, if not the next operator on the log will be dispatched.

(h) *Response while impaired prohibited.* No driver of a wrecker shall respond to a dispatch when he or she is under the influence of alcoholic beverages, controlled substances or is otherwise impaired.

(i) *Restriction for conviction of crimes.* No operator or wrecker driver shall be on the rotation log who has been convicted of a felony or misdemeanor that involves theft, fraud, dishonesty, violence or driving under the influence of alcohol or drugs within the past five (5) years.

(j) *Proficiency.* All operators and wrecker drivers on the rotation list shall be proficient and competent in the operation of such wrecker.

(k) *Driver's licenses required.* No person shall be an operator or be allowed to operate any wrecker unless such person has a valid Alabama driver's license and a commercial driver's license, if required by law, issued by State of Alabama Department of Public Safety.

(l) *Reflective wear required.* All wrecker drivers shall wear reflective vests, coats or shirts while on the scene of any dispatch.

(m) *Attendance of hazardous material training sessions required.* All wrecker operators and all drivers shall attend hazardous material training sessions as required by the department's representative.

(n) *Removal of glass, debris, etc.* Operators shall remove glass and debris from the scene of a call and apply oil-dry if necessary.

(o) *Notice of acquisition of wrecker.* Each operator on the rotation log shall give notice to the department's representative of any wrecker acquired subsequent to placement on the rotation log. The department's representative will inspect the wrecker to determine if it meets all the criteria that are required by this article.

Sec. 26-304. Two separate logs are established as follows:

(1) *Regular haul log:* This log shall be in effect 24 hours a day, seven days a week for assignment by the police department to tow up to three-quarter-ton vehicles for those persons who have no preference as to the company to use; and

(2) *Large haul log:* This log shall be in effect 24 hours a day, seven days a week for assignment by the police department to tow vehicles over three-quarter-ton for those persons who have no preference as to the company to use.

Sec. 26-305. Standards and requirements

(a) *Number, capacity and wrecker standards.* Each operator shall maintain a minimum of three (3) operational wreckers ready for immediate response to a dispatch, which shall be well-maintained and in good condition at all times. All wreckers shall be based at operator's facility within the corporate limits or police jurisdiction of the city.

(b) *Equipment necessary for all wreckers.* Each wrecker shall have on it, at all times, the following equipment and items:

(1) All equipment necessary for the towing vehicle or combination of towing vehicle and towed vehicle must comply with the applicable requirements of 49

C.F.R. §§ 390-399, of the Federal Motor Carrier Rules and Regulations, as the same currently exist or as they may be amended in the future. Any future amendments of the Federal Motor Carrier Rules and Regulations which results in a conflict with the additional requirements contained in this section shall be resolved in favor of compliance with the Federal Motor Carrier Rules and Regulations.

(2) Certification: A garage or mechanic licensed to do business in the City, who is not an owner, employee or otherwise connected with any wrecker company regulated by this article, must inspect and issue a certificate upon inspection that all wreckers of the wrecker company are in safe operating condition, the following mechanical functions and systems are in proper working order and each wrecker of the company has the following additional equipment in the vehicle:

- (a) Wheels: Bearings, lugs;
- (b) Tires: Front left and right (no recap) minimum tread depth 5/32; rear left, outside and all drive tires minimum tread depth 4/32;
- (c) Brakes: Master cylinder; fluid level, leaks; wheel cylinder; brake hose and lines; hydrovac and lines; vacuum or air tanks; parking brake; vacuum or air gauge and buzzer or light; brake pedal fade; pedal pads, if factory equipped; adjustment; brakes;
- (d) Exhaust system: Exhaust manifold; exhaust pipe; muffler; tail pipe;
- (e) Rear end: springs, shackles and clamps; leaks;
- (f) Clutch and transmission; Adjustment, release;
- (g) Body: Seats securely fastened and in good condition; no broken glass in any window, and no broken or cracked glass in any windshield which obstructs the driver's vision; mirrors, left and right; wipers, windshield washers; horn; fire extinguisher; markings; driver's and passenger seat belts; flags and flares; sun visor for driver;
- (h) Steering: Steering arm; tie rod-ends and drag-link; front springs, shackles and clamps; sector to frame mounting; steering free play;
- (i) Most current edition of the Department of Transportation Emergency Response Guide Book.

(3) Each wrecker shall be equipped with factory installed one-ton capacity dual wheels. Dummy wheels are prohibited.

(4) Each wrecker shall be equipped with a power winch, winch line, and boom with a factory rated lifting capacity, or a tested capacity, of not less than 8,000 pounds single line capability. At the time of application, the wrecker operator shall

provide documentation of lifting capacity from the factory or qualified testing facility.

(5) Appropriate equipment shall be attached to each wrecker in order to prevent any vehicle being hauled or towed from being further damaged by coasting, rocking, swinging, or slamming into the wrecker or any part thereof.

(6) Each wrecker shall have the following standard equipment: Tow bar; safety chains; operating, fully charged 5-B.C. rated fire extinguisher mounted in an easily accessible location; wrecking bars; brooms; shovel; axe; dolly; at least three reflective road warning devices; a minimum of 20 pounds of oil dry; and a minimum of 100 feet of three-eighths-inch diameter or larger steel cable.

(7) Yellow emergency lights shall be affixed above the top of the cab of the wrecker. The warning lights shall be visible from a distance of not less than 1,500 feet under normal atmospheric conditions at night. At least one light bar with rotating beacon or strobe light on every end visible from three hundred sixty (360) degrees. All light systems must be visible for a minimum distance of five hundred (500) feet. Sirens are prohibited.

(8) The name, address, and telephone number of the wrecker operator shall be permanently affixed to and prominently displayed on both sides of the wrecker, using letters and numerals of a contrasting color than the rest of the vehicle that are clearly visible from a distance of 100 feet. The lettering used for the operator name shall be at least four inches tall and the lettering and numerals used for the address and telephone number shall be at least two inches tall.

(9) The wrecker company shall not place or imprint on its vehicles, buildings, equipment, clothing, advertisements, or correspondence anything suggesting or implying any official relationship between the wrecker company and the City. Without limitation, the wrecker company shall not use any colors or paint schemes similar to those used by the police department; decals similar in design to department decals; any logo similar to those employed by the City or any of its departments; or any other language or wording which would cause the general public to believe the wrecker is owned or operated by the City.

(10) Each wrecker shall be properly equipped with clearance and marker lights and all other equipment as required by law.

(11) Each wrecker shall be equipped with warning devices, as the same are required by law applicable to trucks.

(12) Each wrecker shall be equipped with dual rear adjustable floodlights with a minimum of 20,000 candlepower each.

(13) Two-way communication equipment, other than a citizen band radio, between the wrecker and the wrecker's dispatch.

(c) *Equipment necessary for large wreckers.* In addition to the requirements contained in subsection (b), large wreckers, as defined herein, are required to be equipped with the following additional items and equipment:

(1) Air control valve or an electrical break capability with an electrical break control box for the purpose of providing braking capability for the vehicle or trailer being towed or removed.

(2) Two chock blocks to prevent rolling or slippage of the wrecker. These chock blocks should have the capability of being secured firmly to the wrecker and should be of a width equal to that of the dual wheels of the wrecker.

(3) A minimum of 200 feet of five-eighths-inch steel cable on multiple drums.

(4) Air brakes constructed to lock the rear wheels automatically upon failure and to supply air to disabled vehicles.

(5) One pair of bolt cutters with a minimum one-half-inch opening.

(6) A minimum total of two operating, fully charged 10-B.C. rated fire extinguishers mounted in easily accessible locations.

(7) External air hookups and hoses.

(8) At least six reflective road warning devices.

(9) A minimum of 50 pounds of oil dry.

(d) *Name, address and telephone number.* The name, address and telephone number of the operator shall be permanently affixed and prominently displayed on both doors of each wrecker.

(e) *Current inspection sticker.* No operator will be permitted on the rotation log without a current inspection sticker issued by the city police department.

Each wrecker shall have a current city inspection decal visibly displayed on the right corner of the passenger window.

(f) *License required.* All operators shall be duly licensed by the city revenue department pursuant to chapter 14 of the city Code and comply with all applicable state, federal and local laws.

Sec. 26-306. Facilities.

(a) Each operator shall have space available for the storage of vehicles resulting from rotation log dispatches, either on the site of the operator's business or within two (2) road miles thereof; provided, however, such requirement shall not apply to operators on the rotation log as of the effective date of this article if they are otherwise in compliance with the provisions herein. Such storage area must be well lighted and with a minimum area of ten thousand (10,000) square feet, enclosed by a six-foot chain link fence or more and a locked gate. This storage area must be suitable for properly accommodating and protecting all motor vehicles and their contents against damage or theft. This minimum space must be used by the operator to store vehicles that are towed as a result of a rotation log dispatch.

(b) The wrecker company's principle and primary physical and business location shall be within the corporate limits of the City of Opelika.

(c) All operators of wrecker services on the rotation log shall reasonably permit, during normal business hours, without charge, the owner or owner's designated representative of any vehicle stored upon or within the operator's facilities, to inspect the same, remove items of personal belongings and the vehicle tag therefrom. In addition, the operator shall also reasonably permit and allow, during normal business hours, without charge, insurance agents, adjusters, and/or law enforcement officers to enter, inspect and photograph any such vehicles.

Sec. 26-307. Records.

(a) Each operator shall maintain accurate records reflecting all wrecker services performed pursuant to this article. Each record of wrecker service shall include the following information:

- (1) The date and time the operator was contacted and requested to perform the service.
- (2) The name of the person requesting the service.
- (3) The location of the vehicle.
- (4) A description of the towed vehicle, including license tag and identification number.
- (5) The owner or driver of the vehicle, if known.
- (6) The service charge and fees.
- (b) All records required herein must be available during normal business hours for inspection by the city representatives.
- (c) The operator shall maintain the aforementioned records for the current calendar year and the preceding calendar year.
- (d) A record of all abandoned motor vehicles is to be maintained by the wrecker company and any abandoned motor vehicle sold or disposed of by operator shall be in accordance with Alabama Code §§ 32-13-1 through 32-13-8 (1975).

Sec. 26-308. Insurance.

- (a) Every operator assumes full responsibility and liability for any injury to persons, damage to property, fire or theft resulting from the operator's negligent acts or omissions.
- (b) Each operator shall maintain a liability insurance policy or policies issued by an insurance company currently authorized to issue policies of insurance covering risks in the state. The aforementioned insurance policy shall protect the public against loss of life, bodily injury to the person and damage to the property and shall name the city and its officers, agents and employees, as additional insureds. The coverage shall be for the following amounts:
 - (1) Not less than one hundred thousand dollars (\$100,000.00) for bodily injury to any one person.

(2) Not less than three hundred thousand dollars (\$300,000.00) for bodily injury in any one accident.

(3) Not less than one hundred thousand dollars (\$100,000.00) for damage to property.

(4) Not less than twenty thousand dollars (\$20,000.00) in garagekeeper's legal liability, which must include fire, explosion, theft, riot and civil commotion, vandalism, collision with a deductible no greater than five hundred dollars (\$500.00).

(c) Each policy required herein shall contain an endorsement providing for thirty (30) days' written notice to the legal department of the city prior to any material change therein or cancellation thereof.

(d) A copy of the certificate of insurance is to be filed with the legal department of the city.

Sec. 26-309. Rotation log.

(a) An operator shall promptly respond to a dispatch and arrive with a wrecker on the scene within thirty (30) minutes under normal driving conditions. If an operator is not capable at the time of dispatch to respond, it shall immediately notify the department's communication center of this fact. The operator will be passed over for that rotation and the dispatch will go to the next operator on the rotation log.

(b) When an operator responds to a dispatch, but renders no wrecker services, the operator will not lose its position on the rotation log.

(c) An operator that has received a dispatch must arrive on the scene with a wrecker within thirty (30) minutes of the dispatch, under normal driving conditions; provided, however, if the operator notifies the city's communications center of a delay and of a reasonable time of arrival on the scene, the operator may take up to fifteen (15) additional minutes to arrive. If the operator does not arrive on the scene on time or if the public health, safety and welfare necessitate more expeditious action, the police department reserves the right to request the services of the next operator on the rotation log. Under these circumstances, the operator who received the first call will forfeit its position on the rotation log for that turn. Any operator that is late in responding to dispatches for wrecker service without justification may be subject to penalties as provided herein.

(d) When emergency conditions necessitate, the city reserves the right to request the services of the operator who, in the city's opinion, is best able to handle the situation and/or can reach the scene most expeditiously, regardless of the operator's position on the rotation log. If a dispatch is made under these circumstances, the operator making such a response will not forfeit their respective position on the rotation log.

(e) Upon written request, the police department will furnish an operator with a monthly report of the department's rotation call-out log.

(f) The department's representative has the right to inspect any wrecker or equipment of an operator on the city's rotation log at any time to ascertain if it is being maintained and all required equipment is on the wrecker and in proper operating order.

(g) All operators on the rotation log shall have their wreckers and equipment inspected annually by the department's representative. A current inspection sticker will be issued by the department.

Sec. 26-310. Penalties.

(a) Violation of any rule, regulation or provision of this article as it relates to wrecker services for rotation log dispatches may be cause for suspension or removal of the operator from the rotation log. The department representative shall notify the operator in writing of a violation and the applicable penalty.

(1) Upon receipt of notification, the operator may, within fifteen (15) days thereof, deliver a written request to the department's representative for a hearing to be held before the city council. The receipt of a written request by the department's representative for a hearing within the prescribed time shall stay the penalty pending final disposition unless it is determined by the chief of the department that it would endanger public safety to allow said operator to continue on the rotation log.

(2) A hearing shall be held within fourteen (14) days after the filing of a written request for a hearing before the city council. The department's representative shall notify the operator of the time, date and place of the hearing. At such public hearing, the operator shall be provided an opportunity to be heard. The city council may hear from city representatives and any others who may have relevant information.

(3) The city council shall render a decision by resolution within ten (10) days from the date of such hearing. Such resolution shall set forth the decision of the city council and the reasons for the same.

(b) The department will reinstate to the rotation log a suspended operator upon written application after the period of suspension has elapsed and after the department has determined that such operator is in compliance with all regulations of this article.

Reinstatement to the rotation log by any suspended operator shall be conditioned upon the payment of a reinstatement fee of one thousand dollars (\$1,000.00).

(c) If any violations of the regulations or provisions of this article are deemed by the city representative to be of such a nature as to endanger public safety, the department shall immediately suspend from the rotation log the operator committing such violation, then provide notice pursuant to the provisions of subsection (a) above.

(d) No applications for reinstatement to the rotation log resulting from violation of these regulations will be considered by a transferee of the suspended operator's business interest unless such transfer was the result of a bona fide sale of a majority of the assets of the business for a reasonable consideration. All documents demonstrating the same must be provided to the department's representative.

(e) Penalties. The following penalties shall be assessed for violations:

First violation:	Written warning
Second violation within 12 months:	Thirty-day suspension
Third violation within 12 months of 1st:	Six month suspension
Fourth violation within 12 months of 2nd:	One year suspension
Fifth violation within 12 months of 3rd:	Permanent suspension

Enhanced penalties; penalties for violations involving failure to arrive on the scene of a dispatched rotation log call, charging in excess of the rates established herein or any infraction which jeopardizes the safety of the public, depending upon the severity thereof, may be accelerated up to and including permanent removal without following the above progressive penalty steps. There shall be no written warnings for any of

such violations and the minimum penalty therefor shall commence with a thirty-day suspension unless accelerated.

Sec. 26-311. - Rates and charges.

The maximum fees for wrecker services provided by any wrecker service operator on the rotation log in regard to services provided as a result of a dispatch shall not exceed the following amounts per wrecker, which include operator, unless otherwise indicated (see note):

A. Normal service-Two-axle vehicle (10,000 lbs. or less)\$150.00

B. Normal service-Two-axle vehicle more than 10,000 lbs., less than 26,000 lbs.\$175.00

C. Normal service-Two-axle vehicles, more than 26,000 lbs.\$275.00

Note: Normal service includes cleaning of debris from roadway, pickup and towing of vehicle to any destination not to exceed ten (10) miles from the scene of the call and disconnect.

D. Large wrecker rates and charges (Eighteen wheeler, motor home or RV)

1. Regular HR. Tow-Tractor Only \$250.00 + \$3.50 per mile (one way)
2. Regular HR. Tow-Tractor & Trailer \$300.00 + \$4.00 per mile (one way)
3. After HR. Tow-Tractor Only \$300.00 + \$4.00 per mile (one way)
4. After HR. Tow-Tractor & Trailer \$350.00 + \$4.50 per mile (one way)
5. Holiday Tow-Tractor Only \$450.00 + \$4.50 per mile (one way)
6. Holiday Tow-Tractor & Trailer \$500.00 + \$5.00 per mile (one way)
7. Regular HR. Tow-Motorhome \$500.00 + \$5.00 per mile (one way)
8. After HR. Tow-Motorhome \$550.00 + \$6.00 per mile (one way)
9. Holiday Tow-Motorhome \$550.00 + \$7.00 per mile (one way)
10. Accident/Rollover Rates:
 - (i) Regular HR-1 Truck/1 Operator \$400.00 first hr. & \$450.00 each hr. thereafter-extra man @ \$107.00 per hr. each man.
 - (ii) After HR-1 Truck/1 Operator \$450.00 first hr. & \$400.00 each hr. thereafter-extra man @ \$160.00 per hr. each man.
 - (iii) Holiday-1 Truck/1 Operator \$550.00 first hr. & \$500.00 each hr. thereafter-extra man @ \$214.00 per hr. each man.

E. Oil dry Included in normal service

F. Righting of two-axle vehicle under 10,000 lbs.\$50.00

G. Righting vehicle in excess of 10,000 lbs. or with more than two (2) axles not to exceed 26,000 lbs., per hour\$150.00

- H. Righting vehicle in excess of 26,000 lbs., per hour\$275.00
- I. Winching two-axle vehicle less than 10,000 lbs., per hour\$50.00
- J. Winching vehicle in excess of 10,000 lbs., per hour\$150.00
- K. Winching vehicle in excess of 26,000 lbs., per hour\$275.00
- L. Righting or lifting vehicle by airbag, per pound lifted\$0.035
- M. Forklift services shall be at commercial rental rates plus ten (10) percent per hour (not including operator).
- N. No keys to vehicle Included in normal services
- O. Vehicle storage rates:
First 24 hoursNo charge
Second 24 hours\$30.00
Each day thereafter\$30.00
- P. After hours vehicle release\$35.00

Notes:

- (1) The rates and charges as established herein do not relate to or regulate consensual wrecker services, being those situations where the vehicle's owner expressly requests towing or wrecker services by a specific towing company and enters into a private contract with the towing or wrecker company for services.

Section 2. That Chapter 26 of the *Code of Ordinances* of the City of Opelika, Alabama, is hereby amended by adding an article to be numbered XI, which said article shall read as follows:

**ARTICLE XI. TOWING AND STORAGE OF MOTOR VEHICLES
(Nonconsensual Towing)**

Sec. 26-325. Findings.

The City Council has found that some members of the public and their property have been placed at risk in circumstances where their motor vehicles have been towed without their consent and placed in storage because of a variety of factors including, but not limited to, unfair and predatory towing and pricing practices, inadequate notice of when vehicles are subject to towing, unreasonable prices for towing and storage, and lack of adequate recourse in the event of improper towing or storage, among others. Since these activities involve commercial enterprises utilizing city streets and rights-of-way for private profit and based upon the foregoing, the city council has concluded that the

regulations provided for by this chapter are required to protect the public health, safety and welfare generally, and particularly the safety of those members of the public whose motor vehicles have been towed without their consent and stored, as well as the public interest in ensuring that the prices charged for nonconsensual tows occurring in instances when motor vehicles are trespassing on private property are fair and reasonable. This ordinance is enacted and adopted pursuant to section 220 of the State of Alabama Constitution of 1901; Code of Ala. 1975 § 11-49-1 and the exemption provided to a political subdivision of the state as set forth in 49 USCA § 14501(c)(2)(C) which grants to such governing authority the right to regulate the price of for-hire motor vehicle transportation by a tow truck if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle.

Sec. 26-326. Definitions.

- (1) *Motor vehicle*. Every self-propelled vehicle which is designed for use upon a highway, including trailers and semitrailers designed for use with the vehicles.

- (2) *Owner/operator*. For the purposes of this section, an owner/operator is defined as a person other than the lienholder, possessing or holding title to a vehicle. The term includes a person entitled to the use and possession of a vehicle which can be subject to the business or commercial interest of another, permission, rental, lease, or security interest in another person or entity.

- (3) *Repossessor* shall mean any person in the business of providing repossession services to others or who performs repossessions on its own behalf, and includes, but is not limited to, officers, managers, agents or employees thereof.

- (4) *Storage fee*. The compensation payable for the storage of a towed motor vehicle that has been stored at or in a facility owned, operated, leased or used by a tow truck service or any other business entity which owns or operates a tow truck.

- (5) *Towing fee*. The compensation payable for the towing of a motor vehicle.

- (6) *Tow, tows, or towing*. The act of removing, by tow truck, a motor vehicle from privately-owned property within the city where it is parked. The preparation, maneuvering, attachment and or loading onto the towing and recovery operator's tow truck for removal does, for purposes of this chapter, constitute a "tow" or "towing."

(7) *Towing and recovery operator.*

(a) A person, business or any other entity engaged in the business of (1) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (2) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping (3) vehicles that have come to rest in places where they cannot be operated. The term includes any employee, authorized agent or legal representative of such individual or entity.

(b) Any person, business or any other entity who in any way advertises, portrays, acts, claims or holds themselves out to be a towing and recovery operator or in any way conveys the impression that they are engaged in services of providing towing and recovery of vehicles shall be deemed to be engaged in towing and recovery services.

(c) Any business, corporation, individual or any other person or entity who is not engaged in the primary business of towing vehicles but who either owns, rents or utilizes a tow truck, whether licensed by the city or not, for the purpose of removing or towing vehicles from private property, including their own and removing such vehicles to place or places owned, controlled, leased, rented by such individual, business or entity or by agreement with another.

(d) The term does not, for purposes of this chapter, include a business, individual or any other entity that removes motor vehicles from public streets and other locations, pursuant to a contract with the city or the city's rotation wrecker program as set forth in article X <<https://www.municode.com/library/>> chapter 26 of the City Code.

(8) *Tow truck.* A motor vehicle for hire (1) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (2) having a manufacturer's gross vehicle weight rating of at least seven thousand (7,000) pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks."

Sec. 26-327. Applicability.

This article applies (1) to the towing, by a towing and recovery operator, of motor vehicles from privately-owned property within the city without the consent of the vehicle owner or driver, (2) to the fees that are charged for such towing of vehicles, and (3) to the fees that are charged for the storage and retrieval of such towed vehicles. This article does not apply to the consensual towing of motor vehicles nor from public streets and other locations that is performed pursuant to a contract with the city, or to the storage of such vehicles.

Sec. 26-328. Compliance with state and municipal licensing requirements.

(a) All towing and recovery operators and all tow trucks engaged in business in the city shall comply with state and the city licensing requirements imposed by the state and the city, and shall provide evidence of such upon request by any representative of the city authorized to enforce the provisions of this chapter.

(b) The city representative responsible for the enforcement of the provisions of this article shall be the Opelika Police Department.

Sec. 26-329. Removal of trespassing motor vehicles.

(a) The owner, operator, or lessee, or authorized agent thereof, of any property, may have any vehicle occupying the property without the permission of its owner, operator, lessee, or authorized agent thereof, removed by towing to a storage facility until reclaimed by the owner or his agent provided the provisions of this chapter are complied with, as well as the following:

(1) Signs shall be posted and affixed on the property and located in prominent and conspicuous locations so as to provide clear and legible notification that vehicles parked without permission will be towed.

a. For parking areas connected to a public street, signs shall be placed prominently and conspicuously at such entrance within five (5) feet of the public right-of-way line. If more than one entrance or curb cut exists from the same street frontage, signs may be posted at the farthest distance between the street entrance or curb cut.

b. For parking areas that are connected to the public right-of-way without intervening curbs or other access barriers and directly in front of or abutting one or more buildings, signs shall be placed at both ends of the parking area and either attached to the building or posted at intervals in the parking area at a distance of fifty (50) feet or less.

c. For parking areas which do not conform nor meet the configurations described in subsections a. and b., property owners may consult with the Opelika Police Department to determine appropriate locations for signage as described herein.

d. Signs shall be posted and affixed to buildings on the property and at such locations thereon which clearly, conspicuously and legibly disclose and identify that any such vehicle parked without permission on said property will be towed.

e. The notice shall also provide the name and current telephone number of the person or firm towing or removing the vehicles, if the property owner, lessor, or person in control of the property has a written contract with a wrecker service.

f. The sign shall not exceed four (4) square feet in area and must be light reflective. The notice shall clearly indicate, in not less than two-inch-high letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow away zone" shall be included on the sign in not less than four-inch-high letters. For a commercial or business (including shopping center and retail) parking lot or facility, in addition to the words "tow away zone," the words "no overnight parking" shall be added to the sign in not less than two-inch-high reflective letters.

g. The sign structure containing the required notices shall be permanently installed with the bottom of the sign not less than four (4) feet above ground level, and be continuously maintained on the property for not less than twenty-four (24) hours prior to the towing or removal of any vehicles.

h. Where parking for residential or multifamily properties are immediately adjacent to parking for commercial or retail properties where no distinguishing barriers or identification for the respective parking exists, the property owners shall take such reasonable measure to identify each such adjoining parking space as restricted parking for their tenants or clientele.

(2) The foregoing requirement for signs shall not apply on any parcel of property used at the time of removal for one single-family residence or one two-family residence; and provided further, however, that parking spaces parallel to or at an angle to a public street and entered directly from a public street shall be deemed to be providing signs properly when the signs are placed along the sidewalk (or in a similar location when there is no sidewalk) adjacent to the space or row of spaces and there is at least one of the signs required by this chapter within forty feet of each such space.

(3) The towing and recovery operator performing the tow shall comply with the following:

a. Authorization of the owner, operator, or lessee of the property from which the vehicle is towed, or the authorized agent thereof. For the purposes of this subsection, "authorized agent" shall not include a representative of the towing and recovery operator.

b. The tow operator shall receive a signed authorization from the property owner or their agent prior to the towing of the vehicle and the property owner or their agent must also be present when the vehicle is towed.

c. Prior to performing the tow, the tow operator shall contact the Opelika Police Department and inform the department of the removal of the vehicle providing the Department with the following information if visible and present on the vehicle, vehicle identification number (VIN), license plate number, decal number and year. In addition, the make, model, year, color and location from where the vehicle is towed and the location of where the vehicle is to be towed is also to be provided.

d. The towing and recovery operator, and the owner, operator, or lessee of the property, shall maintain for public inspection at its business offices, and at the property, respectively, copies of all documents which authorized the operator to tow any motor vehicle from the property.

(4) The owner, operator, lessee or authorized agent of the property shall obtain and retain the following:

a. Photographs or videos of the vehicle in the location from which the vehicle is being towed;

- b. Photographs or videos of the condition of the vehicle prior to the tow; and
- c. To the extent available, other documentary evidence substantiating the reason for the removal.

(5) The tow truck used to perform the tow shall include the name, street address, and telephone number of the towing and recovery operator in a conspicuous location on the exterior of the truck.

(b) This section shall not apply to public safety and public health vehicles or where a vehicle, because of a wreck or other emergency, is parked or left temporarily on the property of another.

Sec. 26-330. Notice.

(a) Immediately subsequent to a trespassing vehicle being removed or towed as permitted by this article, notice of this action shall be provided in person or by facsimile by the towing and recovery operator to the Opelika Police Department desk officer or such other officer as may be designated by the police department. Such notice shall include the following information:

- (1) The name of the towing and recovery operator removing vehicle;
- (2) A description of the vehicle towed including year, make, model, color and if visible and present on the vehicle the vehicle identification number (VIN), license plate number, decal number and year;
- (3) The location of trespassing vehicle and the date and time of the tow;
- (4) The location of the storage facility to which the vehicle was towed; and

(5) The name and address of the individual and/or entity who authorized the tow.

(b) Failure by a towing and recovery operator to report such tow as required by this section shall constitute a traffic infraction punishable by a fine of not more than one hundred dollars (\$100.00). Such failure to report shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping.

Sec. 26-331. Storage facilities.

(a) All towing and recovery operators engaged in towing vehicles without the consent of their owners shall conspicuously display at their main place of business and at any other storage facilities where towed vehicles may be reclaimed, in locations readily visible to those reclaiming vehicles, signs that clearly and legibly provide the following information:

(1) A comprehensive list of all their fees for towing, recovery, and storage services as related to the charges allowed by this ordinance. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed or stored without his consent;

(2) The maximum fees permitted to be charged by this article;

(3) That payment may be made by cash, traveler's check, money order, insurance company check, or debit, credit or charge card;

(4) That a receipt shall be provided;

(5) That the vehicle owner shall have the opportunity to inspect the vehicle for damage prior to payment and a tow company or tow truck operator shall not require a vehicle owner to sign any waiver of the owner's right to receive compensation for damages to the owner's vehicle as a condition of the vehicle's release.

- (6) The non-emergency telephone number of the police; and
- (7) The business telephone number of the city official responsible for handling consumer complaints.
- (b) The fees authorized by this article shall be the maximum allowed and an additional fee for use of a debit, credit or charge card, or other form of payment, shall not be permitted.
- (c) Towing and recovery operators shall make change, up to one hundred dollars (\$100.00), for those who pay in cash for towing and storage charges applicable to vehicles towed under the provisions of this article.
- (d) Storage facilities to which vehicles towed under the provisions of this article are towed shall provide for the release of any vehicle towed to said facility twenty-four (24) hours a day.
- (e) Storage facilities to which vehicles towed under the provisions of this article are towed shall be located within the city.
- (f) In the event that a vehicle is towed from the city and stored in or released from a location in another locality, the provisions of this article shall apply.

Sec. 26-332. Receipt required.

At the time a vehicle owner or agent reclaims a towed vehicle, the towing and recovery operator shall provide a written receipt that contains the following information:

- (a) The name and address of the towing and recovery operator;
- (b) The address from which the vehicle was towed;

- (c) The date and time that the vehicle was towed;
- (d) The date and time that the vehicle entered the facility at which it was placed for storage;
- (e) An itemized list of all the fees that are being charged; and
- (f) A signature of an authorized representative of the towing and recovery operator.

In addition, the towing and recovery operator shall provide to the vehicle owner or agent an information sheet or card supplied by the city regarding information about how to file a complaint with the city.

Sec. 26-333. Fees.

- (a) Charges imposed for the towing, storage, and safekeeping of any vehicle removed, towed, or stored without the consent of its owner shall not be in excess of the maximum charges provided for in this section.
- (b) The maximum fees that may be charged for the towing of motor vehicles and for the storage of such towed vehicles are as follows:
 - (1) For the towing of a motor vehicle weighing less than twenty-six thousand (26,000) pounds, the maximum fee shall be one hundred sixty dollars (\$160.00).
 - (2) For the towing of a motor vehicle weighing more than twenty-six thousand (26,000) pounds, the maximum fee shall be three hundred twenty-five dollars (\$325.00).
 - (3) For the storage of a towed motor vehicle, the maximum fee for each twenty-four-hour period of storage or portion thereof shall be thirty dollars (\$30.00); provided, that no storage fee may be charged for the first twenty-four (24) hours of storage, or any portion thereof, following the arrival of a towed vehicle at the tow operator's storage facility

storage yard. The storage fee shall only apply if the vehicle has been located on the tow operator's storage yard at the address and location that is subject to the annual inspection by the police department and likewise listed on the tow operator's business license at its principal place of business for more than twenty-four (24) hours.

(4) If in the opinion of the tow operator and or its agent, the driver or the operator of the vehicle, whether the owner or agent thereof, appears to be impaired or potentially intoxicated to the extent that they may not be able to safely operate a vehicle, the tow operator and or its agent shall contact the Opelika Police Department and the responding officers shall, upon investigation and observation of the driver, owner, agent of the owner or party seeking the release of the vehicle, determine if the vehicle is to be released to the driver, owner, agent of the owner or party seeking its release. In the event that the officer shall determine in their opinion that the driver, owner, agent of the owner or party seeking the vehicle's release is impaired to such an extent that they cannot safely operate a vehicle, the vehicle shall not be released and the officer shall document that the tow operator and or its agent complied with the requirements of this article. In such event the tow operator and or its agent may charge the thirty dollar (\$30.00) storage fee provided that the vehicle has been stored for longer than twenty-four (24) hours at the storage yard at the address and location that is subject to the annual inspection by the police department and likewise listed on the tow operator's business license as its principal place of business.

(c) Except for fees authorized by this article, no other fees or charges shall be imposed during the first twenty-four-hour period.

(d) If the owner of a motor vehicle or agent thereof is present and capable of removing the vehicle before the towing of said vehicle has transpired, the vehicle shall not be towed and no fee shall be charged. However, if the owner of a motor vehicle or agent thereof is present after the owner's motor vehicle has been:

(1) Actually and physically moved and or maneuvered from its parking place by placing a vehicle or vehicles on two (2) or more go jacks, provided that the tow operator has a wrecker or tow truck located and present on scene that can immediately tow each such vehicle or vehicles. It shall be unlawful to place any vehicle or multiple vehicles on go jacks and hold or withhold the vehicle or vehicles from their owner or agent if each vehicle cannot be immediately towed by a tow truck or wrecker present on scene or until a tow truck or wrecker is available to tow them;

(2) Lifted by tow line or cable;

(3) Loaded onto the towing and recovery operator's tow truck;

The maximum fee of one hundred sixty dollars (\$160.00) as allowed pursuant to subsection (b)(1) shall apply. However the mere arrival of the tow operator's truck or vehicle and or employee(s) shall not be considered as acts, circumstances or justification to tow the vehicle. The placement of obstacles either in front or the rear of the vehicle and or blocking the removal of the vehicle with the operator's tow truck or any other vehicle or blocking the removal of the vehicle by the tow operator, its officers, agents, servants or employees, shall not be considered as acts, circumstances or justification to tow the vehicle and the engagement or use of any such acts shall be unlawful. It shall be unlawful for any tow operator its officers, agents, servants or employees to disable or immobilize any vehicle prior to towing the vehicle.

(e) No storage fees shall be charged if the tow operator its officers, agents, servants or employees have entered into any agreement with any party to lease or to otherwise use any parcel of property or land for the purpose of towing vehicles to places or locations other than the tow operators storage yard as identified in section (b)(2) in order to temporarily store or park vehicles regardless of the hour of day or night. A tow operator may not use any public right-of-way for the purpose of temporarily storing or parking towed vehicles for the purpose of removing multiple vehicles from locations in an attempt to save time from towing vehicles to the tow operator's storage yard.

(f) Any vehicle towed pursuant to this article shall be released by the tow operator within one hour or less when contacted by the owner of any such vehicle towed and payment of the charges due pursuant to this section subject however to the provisions of section (b)(3).

Sec. 26-334. Manner of payment.

Towing and recovery operators shall accept payment for towing fees, storage fees, retrieval fees and the "in lieu of towing" fee provided for in this chapter in each of the following ways:

(a) Cash in United States currency;

(b) Insurance company check;

- (c) Travelers' checks or money orders payable in United States currency; and
- (d) Any debit, credit or charge card that the towing and recovery operator is authorized by the issuing credit or charge card company to accept, and that is accepted by the towing and recovery operator in the ordinary course of business.

Sec. 26-335. Records.

- (a) Every towing and recovery operator shall maintain a record of the following information for each motor vehicle that it has towed from a location within the City:
 - (1) The date and time that the vehicle was towed;
 - (2) The date and time that the vehicle entered the facility at which it was placed for storage;
 - (3) The make, model, year, VIN number, and license plate number of the vehicle;
 - (4) The address of the property from which the vehicle was removed;
 - (5) the name and address of the person and or entity who authorized the tow;
 - (6) Video or photographs taken at the time of the tow if provided by the property owner;
 - (7) The towing and storage fees actually charged;
 - (8) The date and time the vehicle was reclaimed, and by whom; and
 - (9) A copy of the receipt provided to the vehicle owner or agent.

(b) Such record shall be maintained for a period of at least two (2) years from the date of each tow, and shall be made available, during normal business hours, for inspection and copying by any representative of the city authorized to enforce the provisions of this article. In addition, the portion of such log or record pertaining to a particular motor vehicle shall be made available, during normal business hours, for inspection and copying by the owner of the vehicle or the owner's authorized representative.

Sec. 26-336. Reports of repossession required.

(a) Every wrecker who repossesses a motor vehicle within the City limits shall notify the Opelika Police Department within one hour after the repossession is completed.

(b) At the time of repossession, every wrecker company operator or reposessor who repossesses a motor vehicle within the City limits shall be required to have official paperwork authorizing the repossession of the vehicle on his/her person. The authorizing paperwork should include, at a minimum: the name of the authorizing entity, the name of the person/entity believed to be in possession of the vehicle, and a description of the vehicle to include tag number and Vehicle Identification Number.

Sec. 26-337. Conflict with state law.

In the event any provisions of this article shall be in conflict with the codified laws of the state, the codified laws of the state shall be given precedence.

Section 3. **Severability.** If any section, clause, sentence or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then such holding shall in no way affect the validity of the remaining portion of this Ordinance.

Section 4. **Conflict.** All ordinances or parts thereof which are in conflict with the provisions of this Ordinance are hereby repealed in their entirety to the extent of such conflict.

Section 5. **Publication.** The City Clerk of the City of Opelika, Alabama is hereby authorized and directed to cause this Ordinance to be published one (1) time in a newspaper of general circulation published in the City of Opelika, Lee County, Alabama.

ADOPTED AND APPROVED this the ____ day of _____, 2015.

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

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR on this the ____ day of _____, 2015.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2015.

MAYOR

ATTEST:

CITY CLERK