



OPELIKA CITY COUNCIL
“ REGULAR MEETING AGENDA “
204 South 7th Street
September 20, 2016
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
4. PLEDGE OF ALLEGIANCE
 1. Luke Moates and Alicia Frazier, 2nd graders from Jeter Primary.
5. READING OF MINUTES
 1. Minutes from the 9-06-16 City Council Meeting.
 2. Minutes from the Called City Council Meeting on 9-14-16.
6. UNFINISHED BUSINESS
7. REMARKS BY THE MAYOR
 1. Building Inspection Reports - August, 2016
 2. Presentation of a proclamation for Character Day.
 3. Presentation of an exemplary act award - John Harris
8. CITIZEN COMMUNICATIONS (Limit comments to five minutes or less)
9. REPORT OF DISBURSEMENTS
10. COMMITTEE REPORTS
11. GENERAL BUSINESS
 1. Request for Annual Think Pink Walk on October 8Th at 9:00Am.
 2. Request for the Annual Mardi Gras Walk-Run on 2-11-17.
 3. Additional Request for the on the Tracks Event.
 4. Public Hearing Weed Abatement Assessment - Avenue B
 5. Public Hearing Weed Abatement Assessment - 206 Avenue B
 6. Public Hearing Weed Abatement Assessment - 1700 1St Avenue
 7. Public Hearing Weed Abatement Assessment - 1823 1St Avenue
12. AWARDING OF BIDS
 1. N 22ND St Alignment/1ST Ave Widening & Resurfacing-ENG
 2. 15Kv Primary Underground Distribution Cable-OPS
 3. Single-Phase Pole Mounted Transformers-OPS

4. Single-Phase Pad Mounted Transformers-OPS
5. Three-Phase Pad Mounted Transformers-OPS
6. Three-Phase Pad Mounted Transformers-1500 KVA Mineral Oil-OPS

13. RESOLUTIONS

1. Expense Reports from Various Departments.
2. Designate City Personal Property Surplus & Authorize Disposal
3. Purchase-(624) Toter 96-Gal EVR II Carts-OES
4. Weed Abatement Assessment - Avenue B
5. Weed Abatement Assessment - 206 Avenue B
6. Weed Abatement Assessment - 1700 1St Avenue
7. Weed Abatement Assessment - 1823 1St Avenue
8. Anesthesia Assoc. of E. Ala. Refund for Overpayment of Occupational License Fee
9. Request for a Special Use Permit from T-Mobile.
10. Contract with Lee Co. Humane Society, Animal Shelter Services - OES.
11. Contract Renewal with Library Board.
12. Transfer Current Year City Council Discretionary Fund Balances.

14. ORDINANCES

1. Lease Agreement, East Central Alabama Highway Safety Office - 2Nd Reading.
2. Amend Sec. 5-17.1 of Code of Ordinances / Building Permits - First Reading.
3. Rights-Of-Way Use Agreement with Southern Light, LLC - First Reading.

15. APPOINTMENTS

1. Re-appoint Wallace Paschal to the Celebrate Alabama Cooperative District. His new term expires 8-27-2020.
2. Reappoint Auzzie Comer to the Board of Adj. & Appeals. His new term expires 10-01-2020.
3. Reappoint Wayne Gibson to the Board of Adj. & Appeals. His new term expires 10-01-2020.
4. Reappoint Dick Moreman to the Lee Co. Youth Development Board. His new term expires 10-01-2020.

16. ADJOURN



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

CM MINUTES (ID # 1899)

Meeting: 09/20/16 07:00 PM
Department: City Clerk
Category: CM Minutes
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

DOC ID: 1899

Minutes from the 9-06-16 City Council Meeting.



OPELIKA CITY COUNCIL “ REGULAR MEETING MINUTES “

204 South 7th Street

September 6, 2016

TIME: 7:00 PM

1. Call to Order

President Smith called this council meeting to order at 7:00 PM and asked Mr. Shuman to call the roll.

2. Roll Call

All council members were present.

1. Patricia Jones, Larry Gray, Dozier Smith T, David Canon, Eddie Smith

3. Invocation

Dr. Henry Lewis Smith provided the invocation.

4. Pledge of Allegiance

Martha Elizabeth Story and Terez Thomas from Jeter Primary lead the Pledge of Allegiance.

1. Martha Elizabeth Story and Terez Thomas from Jeter Primary.

5. Reading of Minutes

1. Minutes from the 8-16-16 Council Meeting.

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Larry Gray, Council Member

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

2. Minutes from the Called CM on 8-30-16.

RESULT: APPROVED [UNANIMOUS]

MOVER: David Canon, Council Member

SECONDER: Larry Gray, Council Member

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

6. Unfinished Business

7. Remarks By the Mayor

Mayor Fuller congratulated Main Street and Pam Powers-Smith on winning five (5) awards at their annual convention.

1. Recognize the 20 Under 40 current class members.
Mayor Fuller recognize each member of the current class of the 20 Under 40 program.
2. Recognize the individuals that helped with the Ward 1 Neighborhood Pride weekend.
Mayor Fuller and President pro-tem Patricia Jones recognized each participant of the Ward 1 Neighborhood Pride weekend cleanup event and presented each person with a certificate.

8. Citizen Communications

(Limit comments to five minutes or less). No one came forward to speak.

9. Report of Disbursements

10. Committee Reports

11. General Business

1. Request for the 2016 Christmas Parade.

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

2. Request from Lee Co. Life Chain for October 2Nd Event.

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

3. Gateway Food Mart Retail Beer & Wine Off Premise Alcohol License.

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

4. Public Hearing for Demolition - 1400 Old Columbus Road

President Smith opened this public hearing asking if there was anyone present that would like to speak for or against said demolition. No one came forward to speak. President Smith close this public hearing.

12. Awarding of Bids

1. Bids 213-16 Fire Extinguisher Maintenance - All Depts

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

2. Bids 214-16 Tree Trimming Services - OPS

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

13. Resolutions

1. Resolution Order a Demolition - 1003 Alton Court - Inspection. - Tabled

After this resolution was removed from the Table, Ms. Jones made the motion to remove it from the agenda and was seconded by Mr. Canon. The following vote was recorded:

Ayes Jones, Gray, Smith T, Canon, Smith

Nays None

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

2. Resolution 215-16 Expense Reports from Various Departments.

- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith
3. Resolution 216-16 Designate City Personal Property Surplus & Authorize Disposal
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Larry Gray, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
4. Resolution 217-16 Resolution for Demolition - 1400 Old Columbus Road
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
5. Resolution 218-16 Lease - Mailing System - City Hall
RESULT: **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gray, Smith T, Canon, Smith
6. Resolution 219-16 Retirement Purchase of Military Service for OPD Employee.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Larry Gray, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith
7. Resolution 220-16 Annual Renewal of the Excess Loss Insurance Contract.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith
8. Resolution 221-16 Annual Renewal General Liability Insurance
RESULT: **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith
9. Resolution 222-16 Request for a Special Use Permit by Sprint at 1015 West Point Parkway.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gray, Smith T, Canon, Smith
10. Resolution 223-16 Employment Contract with Terry White

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

11. Resolution 224-16 City Budget for FY 2017.

Ms. Jones asked for two (2) inserts be attached to the budget resolution and for the council meeting minutes to reflect that the 2017 Budgeted Capital Outlay was amended to break out a line item of \$45,000 for the Carver/Jeter - sidewalk /street lights - MLK & Auburn St. The total 2017 budget for capital outlay did not change.

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

12. Resolution 225-16 Special Appropriation, Opelika School System - Alternative Learning Center.

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

13. Resolution 226-16 Special Appropriation to Chamber of Commerce, Young Leaders Program.

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

14. Resolution 227-16 Personal Property Lease Agreement - OES.

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

15. Resolution 228-16 Amending Organizational Chart O.E.S.

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

14. Ordinances

1. Ordinance 120-16-ORD Conveyance of City Property, 10962 Lee Rd 279 - 2Nd Reading.

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

2. Ordinance 121-16-ORD Rezoning, 18.7 Acres, Jeter Avenue - 2Nd Reading.

RESULT: SECOND READING AND APPROVED [UNANIMOUS]

MOVER: David Canon, Council Member

SECONDER: Larry Gray, Council Member

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

3. Ordinance Lease Agreement, East Central Alabama Highway Safety Office - 1St Reading.

This ordinance was introduced for a first reading by Mr. Gray.

RESULT: FIRST READING INTRODUCED

15. Appointments

None.

16. Adjourn

These City Council meeting minutes of 9-06-16 are hereby adopted and approved this the ____ day of _____, 2016.

/s/

President of the City Council

City of Opelika, Alabama

ATTEST:

/s/

City Clerk - Treasurer

1. Motion to adjourn.

This council meeting was adjourned at 7:37 PM.

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: Larry Gray, Council Member

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

Attachment: CM 9-20-16, minutes from 9-06-16 CM (1899 : Minutes from the 9-06-16 City Council Meeting.)



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

CM MINUTES (ID # 1900)

Meeting: 09/20/16 07:00 PM
Department: City Clerk
Category: CM Minutes
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

DOC ID: 1900

Minutes from the Called City Council Meeting on 9-14-16.



OPELIKA CITY COUNCIL “ CALLED MEETING MINUTES “

204 South 7th Street

September 14, 2016

TIME: 8:30 AM

1. Call to Order

President Smith called this special called council meeting to order at 8:30am asking Mr. Shuman to call the roll. Mr. Gray, Mr. Smith T and Mr. Smith were present with Ms. Jones and Mr. Canon being absent.

2. Roll Call

1. Patricia Jones, Larry Gray, Dozier Smith T, David Canon, Eddie Smith

3. Invocation

4. Pledge of Allegiance

5. Reading of Minutes

6. Unfinished Business

7. Remarks By the Mayor

8. Citizen Communications

(Limit comments to five minutes or less)

9. Report of Disbursements

10. Committee Reports

11. General Business

1. Public Hearing, Project Agreement with Car Tech, LLC.

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

12. Awarding of Bids

13. Resolutions

1. Resolution 229-16 Project Agreement - Car Tech LLC

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Larry Gray, Council Member

SECONDER: Dozier Smith T, Council Member

AYES: Larry Gray, Dozier Smith T, Eddie Smith

ABSENT: Patricia Jones, David Canon

2. Resolution 230-16 Tax Abatements - Car Tech LLC.

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Dozier Smith T, Council Member

SECONDER: Larry Gray, Council Member

AYES: Larry Gray, Dozier Smith T, Eddie Smith

ABSENT: Patricia Jones, David Canon

14. Ordinances

15. Appointments

16. Adjourn

These City Council meeting minutes of 9-14-16 are hereby adopted and approved this the ____ day of _____, 2016.

/s/

President of the City Council
City of Opelika, Alabama

ATTEST:

/s/

City Clerk - Treasurer

1. Motion to adjourn.

This called council meeting ended at 8:34 am.

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Dozier Smith T, Council Member

SECONDER: Larry Gray, Council Member

AYES: Larry Gray, Dozier Smith T, Eddie Smith

ABSENT: Patricia Jones, David Canon

Attachment: CM 9-20-16, minutes from call CM 9-14-16 (1900 : Minutes from the Called City Council Meeting on 9-14-16.)



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 09/20/16 07:00 PM
Department: Building Inspection
Category: Building Permit Report.
Prepared By: William Ott
Initiator: Jeff Kappelman
Sponsors:

MAYOR'S REMARKS (ID # 1876)

DOC ID: 1876

Building Inspection Reports - August, 2016

Monthly Building Permit Report - August, 2016

Permit Number	Main Address	Permit Type	Permit Status	Work Class	Issue Date	Valuation
BPRES-000908-2016	600 MEADOW AVE	Building - Residential	Permit Issued	Alteration	8/2/2016	\$12,333.00
BPRES-001184-2016	2710 EASTPOINT DR	Building - Residential	Permit Issued	New Single Family Detached	8/22/2016	\$220,614.00
BPRES-000958-2016	1229 GLENN ST	Building - Residential	Permit Issued	Roofs	8/23/2016	\$3,050.00
BPRES-001247-2016	1407 RIDGE RD	Building - Residential	Permit Issued	Roofs	8/31/2016	\$7,500.00
BPRES-000071-2016	2800 EASTPOINT DR	Building - Residential	Permit Issued	New Single Family Detached	8/23/2016	\$231,616.00
BPRES-000885-2016	1107 LIVE OAK CIR	Building - Residential	Permit Issued	New Single Family Detached	8/3/2016	\$404,187.00
BPRES-001032-2016	1401 UXBRIDGE CT	Building - Residential	Permit Issued	New Single Family Detached	8/15/2016	\$299,641.00
BPC-001240-2016	1911 S LONG ST	Building - Commercial	Permit Issued	Addition	8/30/2016	\$100,000.00
BPRES-000012-2016	614 BIRCH CIR	Building - Residential	Permit Issued	New Single Family Detached	8/23/2016	\$5,270.00
BPRES-001229-2016	1802 CALCUTTA DR	Building - Residential	Permit Issued	Accessory Buildings	8/26/2016	\$2,500.00
BPRES-000997-2016	610 DOGWOOD AVE	Building - Residential	Permit Issued	Alteration	8/9/2016	\$3,925.00
BPC-001188-2016	1515 2ND AVE A	Building - Commercial	Permit Issued	Roofs	8/22/2016	\$62,053.00
BPRES-000603-2016	802 BLACKBERRY CV	Building - Residential	Permit Issued	New Single Family Detached	8/4/2016	\$354,048.00
BPRES-001038-2016	2716 GRAND NATIONAL PKWY	Building - Residential	Permit Issued	Roofs	8/15/2016	\$12,436.00
BPRES-001200-2016	2704 EASTPOINT DR	Building - Residential	Permit Issued	New Single Family Detached	8/23/2016	\$219,215.00
BPC-001233-2016	804 COLUMBUS PKWY	Building - Commercial	Permit Issued	Signs	8/29/2016	\$3,300.00
BPRES-001187-2016	712 HERNDON ST	Building - Residential	Permit Issued	Alteration	8/22/2016	\$1,754.00
DEMO-001179-2016	502 GENEVA ST	Demolition	Permit Issued	All Other Building Demolition	8/18/2016	\$50.00
BPRES-000907-2016	600 MEADOW AVE B	Building - Residential	Permit Issued	Alteration	8/2/2016	\$12,333.00
BPRES-000273-2016	1007 ALABAMA AVE	Building - Residential	Permit Issued	Alteration	8/23/2016	\$4,000.00
BPC-001145-2016	2000 PEPPERELL PKWY	Building - Commercial	Permit Issued	Alteration	8/18/2016	\$1,469,763.00
BPRES-001186-2016	2706 EASTPOINT DR	Building - Residential	Permit Issued	New Single Family Detached	8/22/2016	\$201,360.00
BPRES-000973-2016	2800 HILTON CT	Building - Residential	Permit Issued	Alteration	8/8/2016	\$40,000.00
BPRES-000998-2016	215 N 3RD ST A	Building - Residential	Permit Issued	Alteration	8/9/2016	\$20,000.00
BPC-000954-2016	2002 STEEL ST A	Building - Commercial	Permit Issued	Communication Towers	8/9/2016	\$39,337.00
BPRES-000943-2016	1406 SCOTT ST	Building - Residential	Permit Issued	Roofs	8/4/2016	\$5,300.00
BPRES-001020-2016	728 N 10TH ST	Building - Residential	Permit Issued	Roofs	8/11/2016	\$11,960.00
BPRES-001203-2016	1700 INDIA RD	Building - Residential	Permit Issued	Alteration	8/23/2016	\$9,200.00
BPRES-001015-2016	2103 CROSSING DR	Building - Residential	Permit Issued	New Single Family Detached	8/26/2016	\$205,462.00

BPRES-000905-2016	600 MEADOW AVE A	Building - Residential	Permit Issued	Alteration	8/2/2016	\$3,833.00
BPRES-000902-2016	1001 COLLINWOOD ST	Building - Residential	Permit Issued	Accessory Buildings	8/2/2016	\$7,000.00
BPC-000899-2016	1100 2ND AVE	Building - Commercial	Permit Issued	Signs	8/2/2016	\$17,200.00
BPC-001036-2016	105 N UNIROYAL RD	Building - Commercial	Permit Issued	Roofs	8/15/2016	\$15,365.00
BPC-000865-2016	1902 MARKET ST	Building - Commercial	Permit Issued	Addition	8/15/2016	\$298,105.00
BPC-000953-2016	3792 PEPPERELL PKWY	Building - Commercial	Permit Issued	Temporary Signs	8/4/2016	\$10.00
BPRES-001144-2016	1901 HIGHPOINT DR	Building - Residential	Permit Issued	Alteration	8/17/2016	\$40,000.00
BPC-001005-2016	1000 2ND AVE	Building - Commercial	Permit Issued	Signs	8/10/2016	\$2,408.00
DEMO-001243-2016	1710 2ND AVE	Demolition	Permit Issued	Single Family Demolition	8/30/2016	\$50.00
BPRES-000889-2016	1109 LIVE OAK CIR	Building - Residential	Permit Issued	New Single Family Detached	8/3/2016	\$318,200.00
BPC-000807-2016	2871 CORPORATE PARK DR	Building - Commercial	Permit Issued	New	8/30/2016	\$1,036,000.00
BPRES-001237-2016	1614 3RD AVE	Building - Residential	Permit Issued	Roofs	8/30/2016	\$10,800.00
BPRES-001013-2016	2806 EASTPOINT DR	Building - Residential	Permit Issued	New Single Family Detached	8/15/2016	\$238,891.00
BPRES-001185-2016	2708 EASTPOINT DR	Building - Residential	Permit Issued	New Single Family Detached	8/22/2016	\$230,962.00
BPC-000922-2016	2418 PEPPERELL PKWY	Building - Commercial	Permit Issued	Signs	8/3/2016	\$46,070.00
BPC-001141-2016	2506 PEPPERELL PKWY	Building - Commercial	Permit Issued	Tenant Build Out	8/30/2016	\$397,402.00
BPRES-000272-2016	204 HIGHLAND AVE	Building - Residential	Permit Issued	Alteration	8/23/2016	\$4,767.00
BPRES-000357-2016	600 S 8TH ST	Building - Residential	Permit Issued	Roofs	8/23/2016	\$2,200.00
BPRES-000127-2016	1706 ROCKY BROOK RD	Building - Residential	Permit Issued	Roofs	8/23/2016	\$6,400.00
BPRES-000279-2016	1211 LIVE OAK CIR	Building - Residential	Permit Issued	Swimming Pool	8/23/2016	\$31,750.00
BPRES-000999-2016	215 N 3RD ST B	Building - Residential	Permit Issued	Alteration	8/9/2016	\$20,000.00
BPRES-000960-2016	1411 SOUTHERS CT	Building - Residential	Permit Issued	Roofs	8/5/2016	\$8,521.00
BPRES-001222-2016	3024 MCKINLEY DR	Building - Residential	Permit Issued	Swimming Pool	8/25/2016	\$36,000.00
BPRES-001002-2016	1117 W COLLINWOOD CIR	Building - Residential	Permit Issued	Alteration	8/10/2016	\$20,000.00
BPRES-000983-2016	603 KILGORE AVE	Building - Residential	Permit Issued	Alteration	8/8/2016	\$2,170.00
BPRES-001140-2016	1814 HURST ST	Building - Residential	Permit Issued	Alteration	8/17/2016	\$9,975.00
BPRES-000893-2016	1205 LIVE OAK CIR	Building - Residential	Permit Issued	New Single Family Detached	8/3/2016	\$284,000.00
BPC-001009-2016	1100 2ND AVE	Building - Commercial	Permit Issued	Signs	8/11/2016	\$17,200.00
					Total	\$7,067,486.00


 Jeff Kappelman Chief Building Inspector



*Rich in heritage,
with a vision
for the future*

Planning Department - Building Inspections Division

Telephone 334-705-5420
Fax 334-705-5159

Monthly Permits For August, 2016

Work & Repair On Buildings:

Building Repairs	Commercial	Residential
Buildings Condemned	0	1
Buildings Demolished	1	0
Building Repairs	3	15
Plumbing Upgrades	1	7
Electrical Upgrades	0	13
Mechanical Upgrades	2	11
Reroofs And Roof Repairs	1	10
Mobile Home Services	0	1
Building Additions/Accessory Structures	0	5

Monthly Totals For August 2007-2016

2007	\$10,670,743.00
2008	\$6,027,767.00
2009	\$5,072,520.00
2010	\$7,413,429.00
2011	\$4,738,734.00
2012	\$18,750,010.00
2013	3,697,147.00
2014	3,556,883.00
2015	12,780,071.00
2016	7,067,486.00

Total Permits Issued:

2	New Buildings: Commercial	\$1,334,105.00
5	Commercial Renovations And Repairs	\$1,921,917.00
6	Signs	\$86,188.00
13	New Single Family Homes	\$3,213,466.00
31	Residential Repairs And Renovations	\$511,810.00
0	New Apartment Units	\$0.00
0	New Duplex Residences	\$0.00
57	Total Building Permits Issued	\$7,067,486.00

57	Total Permits Issued For August, 2016	\$7,067,486.00
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TAKEN FROM THE RECORDS OF THE
BUILDING INSPECTOR


Jeff Kappelman
Chief Building Inspector

Attachment: Monthly & YTD Report For City Council - August, 2016 (1876 : Building Inspection Reports - August, 2016)



*Rich in heritage,
with a vision
for the future*

Planning Department - Building Inspections Division

Telephone 334-705-5420
Fax 334-705-5159

Year To Date Report - 2016

Building Repairs	Commercial	Residential
Buildings Condemned	0	0
Buildings Demolished	4	2
Building Repairs	55	72
Plumbing Upgrades	34	60
Electrical Upgrades	51	124
Mechanical Upgrades	30	60
Reroofs And Roof Repairs	14	45
Mobile Home Services	0	15
Building Additions/Accessory Structures	1	54

Yearly Totals For Oct. 1st - Sept. 30th	
2007	\$129,263,598.00
2008	\$127,407,288.00
2009	\$67,359,271.00
2010	\$96,662,342.00
2011	\$45,352,237.00
2012	\$178,221,004.00
2013	\$61,881,917.00
2014	\$79,409,560.00
2015	\$192,080,600.00
2016	\$122,429,088.00

28	New Buildings: Commercial	\$76,854,369.00
65	Commercial Renovations And Repairs	\$9,684,614.00
27	Signs	\$387,951.00
152	New Single Family Homes	\$36,480,080.50
172	Residential Repairs And Renovations	\$3,800,702.00
8	New Apartment Units	\$760,000.00
0	New Duplex Residences	\$0.00
452	Total Building Permits Issued	\$127,967,716.50
424	Total Issued for FY 2016	\$122,429,088.00


JEFF KAPPELMAN
Building Official



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 1883)

Meeting: 09/20/16 07:00 PM
Department: City Clerk
Category: Request - Use of City ROW
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

DOC ID: 1883

Request for Annual Think Pink Walk on October 8Th at 9:00Am.

Shuman, Robert

From: Pam Powers-Smith <director@opelikamainstreet.org>
Sent: Sunday, September 11, 2016 2:44 PM
To: Shuman, Robert
Subject: Think Pink - October 8
Attachments: 2015-09-01 12-21-16.pdf

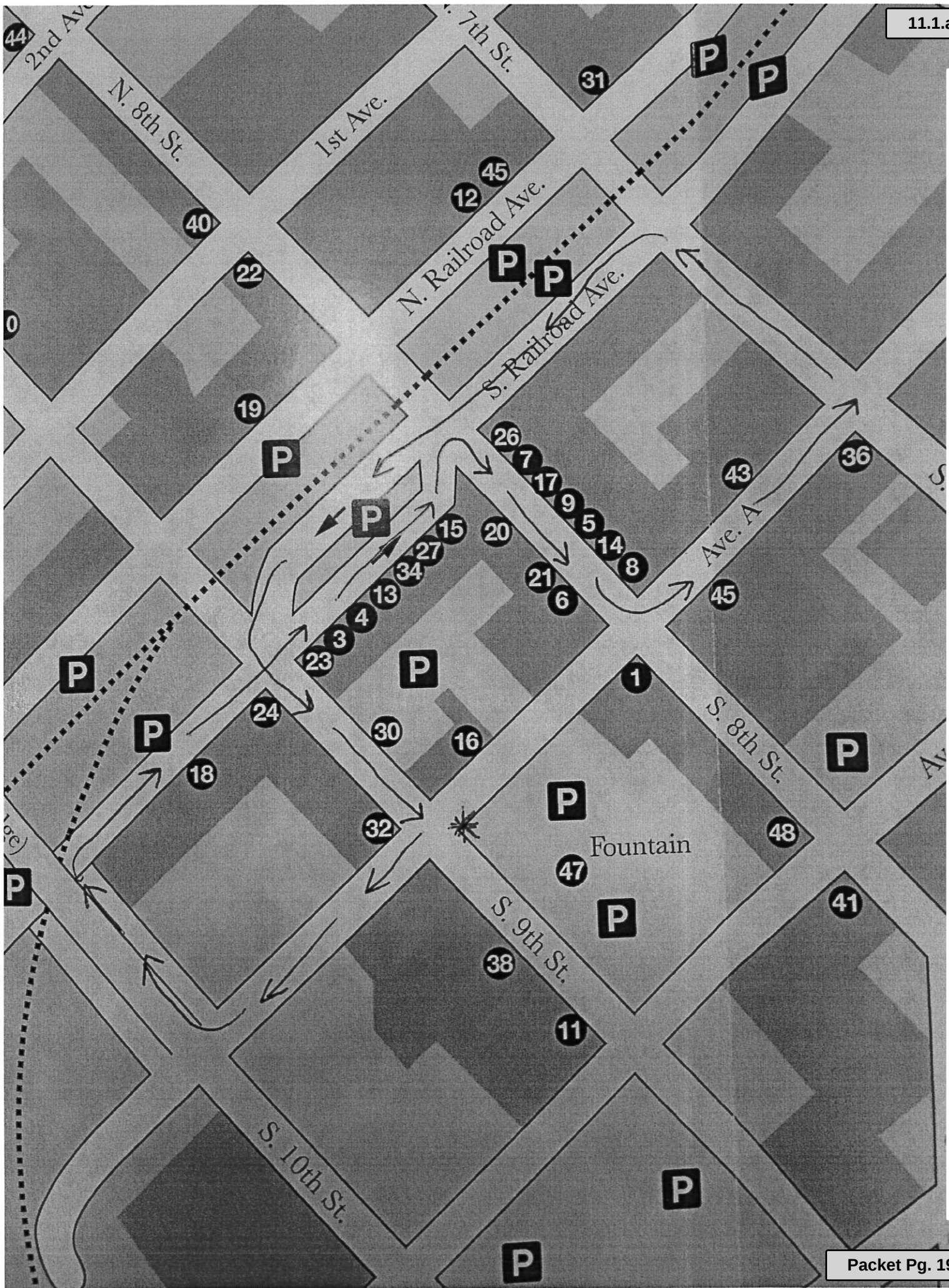
Hello! I listed Think Pink on my list of events in February but didn't know map route yet.

Please accept this email as my request for permission for the the Think Pink walk to follow the route attached. It's the same route as the last two years. The date is October 8 at 9am.

Thanks, Pam

Opelika Main Street, Inc.
Director, Pam Powers-Smith
334.745.0466
PO Box 2464 - Opelika, AL 36803
Sign up for emails! www.OpelikaMainStreet.org
Like us! www.Facebook.com/OpelikaMainStreet

Attachment: CM 9-20-16, Think Pink event (1883 : Request for Annual Think Pink Walk on October 8Th at 9:00Am.)



Attachment: CM 9-20-16, Think Pink event (1883 : Request for Annual Think Pink Walk on October 8Th at 9:00Am.)



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 1887)

Meeting: 09/20/16 07:00 PM
Department: City Clerk
Category: Request / Temp Street Closure
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

DOC ID: 1887

Request for the Annual Mardi Gras Walk-Run on 2-11-17.

Shuman, Robert

Subject: walk/run 2017
Attachments: Scanned from a Xerox multifunction device.pdf

-----Original Message-----

From: Jackie Pinkard [mailto:jpinkard@lrcog.com]
 Sent: Tuesday, September 13, 2016 10:07 AM
 To: Shuman, Robert <RShuman@opelika-al.gov>
 Subject: walk/run 2017

Good Morning Mr. Shuman:

I am requesting approval once again from the City of Opelika for the Lee-Russell 2017 Fun Run/Walk. Below is the information you requested for this year's event. Let me know if you need anything else.

I have already received approval from Sam Bailey and the Park Board.

Thanks,

Jackie

Name of Event: The 12th Annual Unforgettable Footsteps Mardi Gras Walk/Run
 Sponsor: Lee-Russell Council of Governments
 Date: February 11, 2017
 Place: Opelika Municipal Park
 Start & End Time: 6:30 a. m. - 10:30 a. m.
 Estimated number of participants: 100
 Route: map is attached; it is the same as past years

I am requesting 20 safety cones from the City.

Jackie Pinkard, Director
 Area Agency on Aging
 Lee-Russell Council of Governments
 2207 Gateway Drive
 Opelika, AL 36801
 334-749-5264
 334-528-9212 (direct)
 334-749-6582 (fax)
 1-800 AGE-LINE

Attachment: CM 9-20-16, request Mardi Gras walk-run (1887 : Request for the Annual Mardi Gras Walk-Run on 2-11-17.)

12th Annual Unforgettable Footsteps Mardi Gras Walk/Run

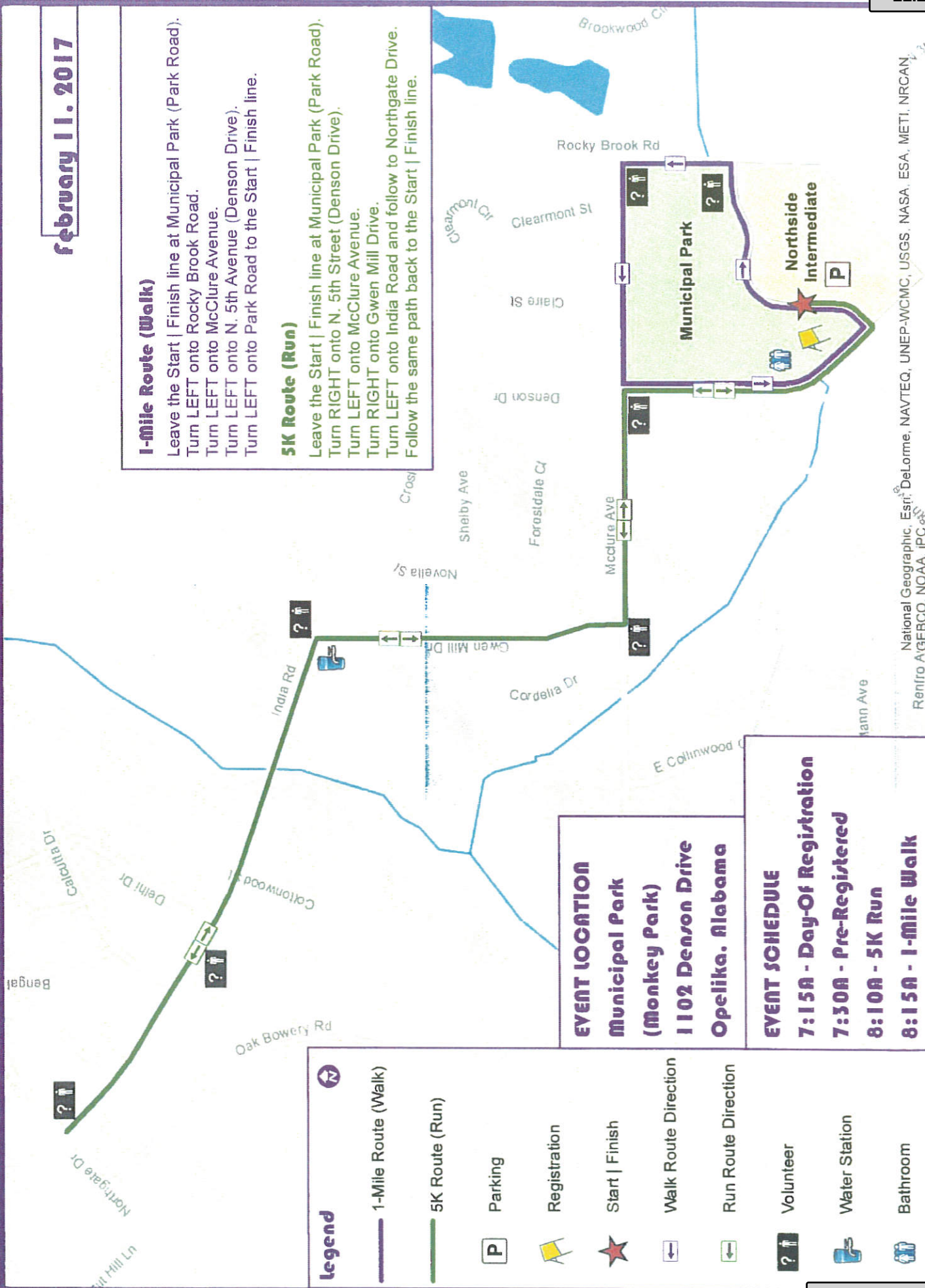
February 11, 2017

1-Mile Route (Walk)

Leave the Start | Finish line at Municipal Park (Park Road).
Turn LEFT onto Rocky Brook Road.
Turn LEFT onto McClure Avenue.
Turn LEFT onto N. 5th Avenue (Denson Drive).
Turn LEFT onto Park Road to the Start | Finish line.

5K Route (Run)

Leave the Start | Finish line at Municipal Park (Park Road).
Turn RIGHT onto N. 5th Street (Denson Drive).
Turn LEFT onto McClure Avenue.
Turn RIGHT onto Gwen Mill Drive.
Turn LEFT onto India Road and follow to Northgate Drive.
Follow the same path back to the Start | Finish line.



EVENT LOCATION

**Municipal Park
(Monkey Park)
1102 Denson Drive
Opelika, Alabama**

EVENT SCHEDULE

**7:15A - Day-Of Registration
7:30A - Pre-Registered
8:10A - 5K Run
8:15A - 1-Mile Walk**

Legend

1-Mile Route (Walk)

5K Route (Run)



Parking



Registration



Start | Finish



Walk Route Direction



Run Route Direction



Volunteer



Water Station



Bathroom

National Geographic, Esri, DeLorme, NAVTEQ, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, Renfrew A/GBCO, NOAA, IPC, and others.

Attachment: CM 9-20-16, request Mardi Gras walk-run (1887 : Request for the Annual Mardi Gras Walk-Run on 2-11-17.)



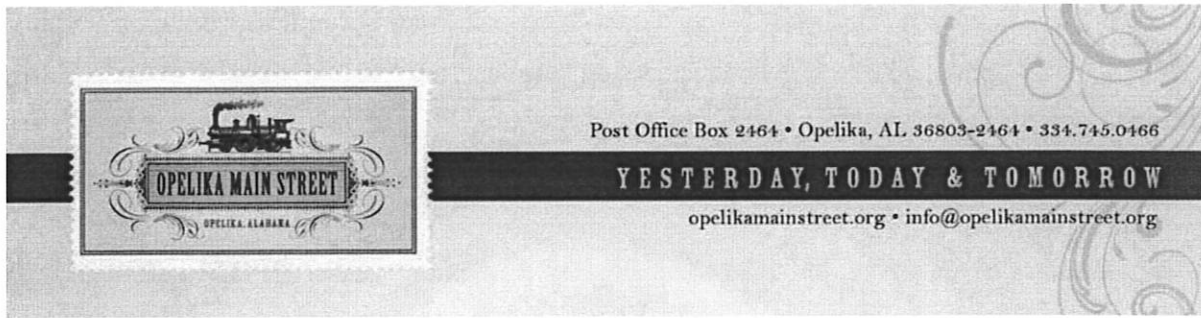
City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 1902)

Meeting: 09/20/16 07:00 PM
Department: City Clerk
Category: Request / Temp Street Closure
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:
DOC ID: 1902

Additional Request for the on the Tracks Event.



To Mayor Gary Fuller and the Opelika City Council:

Opelika Main Street would like to officially request permission to block certain areas during On the Tracks on October 7, 2016. These will allow us to designate special parking for handicap, vendors, volunteers, VIP, merchants and more.

1. Depot parking lot with grassy area
2. City hall parking lot
3. Opelika Chamber parking lot
4. One side of courthouse square parking lot

These would be blocked from 5:30p to 7:30p. After that, anyone may park in them.

Thank you for your time.

Pam Powers-Smith
Opelika Main Street Director



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 1895)

Meeting: 09/20/16 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:

DOC ID: 1895

Public Hearing Weed Abatement Assessment - Avenue B

WEED ABATEMENT INVOICE

Date: 09/13/2016

**To: Mattie & Albert Chambers
103 Avenue B
Opelika AL 368010**

**Property Address:
Avenue B (No permanent address)
Opelika AL 36801
Parcel # 10-03-08-2-002-148.000**

On August 12, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>170.32</u>
Certified mail:	<u>12.98</u>
Misc.	<u> </u>
Total	<u>183.30</u>

Attachment: WEED INVOICE (1895 : Public Hearing Weed Abatement Assessment - Avenue B)

To: **Mattie & Albert Chambers**
103 Avenue B
Opelika AL. 368010

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 Avenue B, Parcel # 43-10-03-08-2-002-148.000**

=====

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at Avenue B, Parcel No.148.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$183.30.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 20th day of September, 2016.

You are further notified that the cost of abating such nuisance, if confirmed by the City Council, shall constitute a weed lien on said property and shall be turned over to the Revenue Commissioner of Lee County, Alabama to add the amount of such weed lien to the next regular bill of taxes levied against said property.

Dated this the 13th day of September, 2016.

 Jerry Bush
 Code Compliance Officer

Cc: Joey Motley – City Administrator
 Lillie Finley – Purchasing-Revenue Manger
 Guy. F. Gunter, III – City Attorney

Attachment: Weeds, NPH-Resolution, cost to abate, (1895 : Public Hearing Weed Abatement Assessment - Avenue B)



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 1897)

Meeting: 09/20/16 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:
DOC ID: 1897

Public Hearing Weed Abatement Assessment - 206 Avenue B

WEED ABATEMENT INVOICE

Date: 09/13/2016

**To: Fitzgerald Hutchinson/James Robinson
802 Nancy St.
Tuskegee AL 36083**

**Property Address:
206 Avenue B.
Opelika AL 36801
Parcel # 10-03-07-1-001-118.000**

On August 12, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>250.00</u>
Certified mail:	<u>12.98</u>
Misc.	<u> </u>
Total	<u>262.98</u>

Attachment: WEED INVOICE (1897 : Public Hearing Weed Abatement Assessment - 206 Avenue B)

To: **Fitzgerald Hutchinson/James Robinson**
802 Nancy St.
Tuskegee AL. 36083

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 206 Avenue B, Parcel 43-10-03-07-1-001-118.000**

=====

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 206 Avenue B, Parcel No. 118.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$262.98.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 20th day of September, 2016.

You are further notified that the cost of abating such nuisance, if confirmed by the City Council, shall constitute a weed lien on said property and shall be turned over to the Revenue Commissioner of Lee County, Alabama to add the amount of such weed lien to the next regular bill of taxes levied against said property.

Dated this the 13th day of September, 2016.

 Jerry Bush
 Code Compliance Officer

Cc: Joey Motley – City Administrator
 Lillie Finley – Purchasing-Revenue Manger
 Guy. F. Gunter, III – City Attorney

Attachment: Weeds, NPH-Resolution, cost to abate, (1897 : Public Hearing Weed Abatement Assessment - 206 Avenue B)



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 09/20/16 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush

Initiator: Lillie Finley
Sponsors:

GENERAL BUSINESS (ID # 1893)

DOC ID: 1893

Public Hearing Weed Abatement Assessment - 1700 1St Avenue

WEED ABATEMENT INVOICE**Date: 09/13/2016****To: Kenneth & Reiko Johnson
1700 1st Ave
Opelika AL. 36801****Property Address:
1700 1st Ave
Opelika AL. 36801
Parcel # 09-06-13-1-002-026.000**

On August 10, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>230.75</u>
Certified mail:	<u>12.98</u>
Misc.	<u> </u>
Total	<u>243.73</u>

Attachment: WEED INVOICE (1893 : Public Hearing Weed Abatement Assessment - 1700 1st Avenue)

To: **Kenneth & Reiko Johnson**
1700 1st Ave
Opelika AL. 36801

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 1700 1St Avenue, Parcel 43-09-06-13-1-002-026.000**

=====

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 1700 1st Avenue, Parcel No. 026.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$243.73.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 20th day of September, 2016.

You are further notified that the cost of abating such nuisance, if confirmed by the City Council, shall constitute a weed lien on said property and shall be turned over to the Revenue Commissioner of Lee County, Alabama to add the amount of such weed lien to the next regular bill of taxes levied against said property.

Dated this the 13th day of September, 2016.

 Jerry Bush
 Code Compliance Officer

Cc: Joey Motley – City Administrator
 Lillie Finley – Purchasing-Revenue Manger
 Guy. F. Gunter, III – City Attorney

Attachment: Weeds, NPH-Resolution, cost to abate (1893 : Public Hearing Weed Abatement Assessment - 1700 1St Avenue)



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 09/20/16 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush

Initiator: Lillie Finley
Sponsors:

GENERAL BUSINESS (ID # 1890)

DOC ID: 1890

Public Hearing Weed Abatement Assessment - 1823 1St Avenue

WEED ABATEMENT INVOICE**Date: 09/13/2016****To: Isamel Hernandez
3407 Chilton Ave
Opelika Al. 36801****Property Address:
1823 1st Ave
Opelika Al. 36801
Parcel # 09-06-13-3-000-033.000**

On August 10, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement: 300.00

Certified mail: 12.98

Misc.

Total 312.98

Attachment: WEED INVOICE Hernandez (1890 : Public Hearing Weed Abatement Assessment - 1823 1st Avenue)

To: Isamel Hernandez
3407 Chilton Ave
Opelika Al. 36801

**NOTICE OF PUBLIC HEARING ON COST OF
ABATEMENT OF WEED NUISANCE LOCATED AT
1823 1st Avenue, Parcel 43-09-06-13-3-000-033.000**

=====

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 1823 1st Avenue, Parcel No. 033.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$312.98.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 20th day of September, 2016.

You are further notified that the cost of abating such nuisance, if confirmed by the City Council, shall constitute a weed lien on said property and shall be turned over to the Revenue Commissioner of Lee County, Alabama to add the amount of such weed lien to the next regular bill of taxes levied against said property.

Dated this the 13th day of September, 2016.

Jerry Bush
Code Compliance Officer

Cc: Joey Motley – City Administrator
Lillie Finley – Purchasing-Revenue Manger
Guy. F. Gunter, III – City Attorney

Attachment: Weeds, NPH-Resolution, cost to abate, (1890 : Public Hearing Weed Abatement Assessment - 1823 1St Avenue)



City Council

204 South 7th Street
Opelika, AL

SCHEDULED

BIDS 231-16

Meeting: 09/20/16 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 1908

N 22ND St Alignment/1ST Ave Widening & Resurfacing-ENG

RESOLUTION NO. _____

WHEREAS, the Purchasing Department solicited sealed bids for a Contract for North 22nd Street Alignment/1st Avenue Widening & Resurfacing for the Engineering Department of the City of Opelika; and

WHEREAS, D & J Enterprises was the lowest bidder meeting specifications; and

WHEREAS, budgeted funds will come from the 2011 Road Bond fund;

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

1. That the bid be awarded to D & J Enterprises on their sole bid meeting specifications.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to D & J Enterprises in the amount of \$446,990.00.
3. That the Controller be authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this Contract.

APPROVED AND ADOPTED this the ____ day of _____ 2016.

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

ATTEST:

Bids 231-16

Meeting of September 20, 2016

Robert G. Shuman, CMC
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bid #16038 – We are asking the Council to approve a Contract for North 22nd Street Alignment/1st Avenue Widening & Resurfacing

FACTS:

- Bid opening date – 9/14/16
- User department – Engineering
- The bid was mailed to 10 vendors
- 3 bids were received
- D & J Enterprises submitted the lowest bid meeting specifications
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the bid be awarded to D & J Enterprises on their low bid meeting specifications in the amount of \$446,990.00.**

Packet Pg. 40



City Council

204 South 7th Street
Opelika, AL

SCHEDULED

BIDS 232-16

Meeting: 09/20/16 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 1907

15Kv Primary Underground Distribution Cable-OPS

RESOLUTION NO. _____

WHEREAS, the Purchasing Department solicited bids for a Contract for 15KV Primary Underground Distribution Cable for Opelika Power Services; and

WHEREAS, T & C Specialty Distributors, Inc. is the responsible bidder meeting specifications; and

WHEREAS, this is a budgeted contract from the System Expansion and Upgrades fund;

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

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

APPROVED AND ADOPTED this the ____ day of _____, 2016.

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

ATTEST:

Bids 232-16

Meeting of September 20, 2016

Robert G. Shuman, CMC
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bid #16036 – We are asking the Council to approve a contract for 15KV Primary Underground Distribution Cable

FACTS:

- Bid opening date – 9/7/16
- User departments – Opelika Power Services
- The bid was mailed to 30 vendors
- 7 bids were received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to T & C Specialty Distributors, Inc. on their bid meeting specifications on an as needed basis.**

BID# 16036 DATE: 9/7/16 DEPT: OPELIKA POWER SERVICES
30 VENDORS
DESCRIPTION: 15KV PRIMARY UNDERGROUND DISTRIBUTION CABLE
7 BIDS RECEIVED

	ITEM #1: 5,000 FT 15KV 1/0 AWG AL INSULATED PRIMARY UNDERGROUND DISTRIBUTION CABLE									
	ITEM #2: 5,000 FT 15KV 4/0 AWG AL INSULATED PRIMARY UNDERGROUND DISTRIBUTION CABLE									
	ITEM #3: 5,000 FT 15KV 350 MCM CU INSULATED PRIMARY UNDERGROUND DISTRIBUTION CABLE									
VENDOR NAME	ITEM #1	EXT PRICE	ITEM #2	EXT PRICE	ITEM #3	EXT PRICE	DEL	MANUF	TERMS	DISC
ACCU-TECH CORPORATION										
AMERICAN SAFETY UTILITY CORP										
ANIXTER INC (*Does not meet specs)	\$ 2.196	\$10,980.00	\$ 3.538	\$17,690.00	\$ 11.42	\$57,100.00	6-7 wks	Kerite	--	--
ANIXTER INC-ALT (*Does not meet specs)	\$ 1.697	\$ 8,485.00	\$ 2.108	\$10,540.00	\$ 7.425	\$37,125.00	8 wks	Superior Essex	--	--
B & H PHOTO-VIDEO INC										
BIGHAM CABLE CONSTRUCTION INC										
CABLEXPRESS CORP/CXTEC										
CDW GOVERNMENT INC										
CITY ELECTRIC SUPPLY CO										
COLORADO TIME SYSTEMS INC										
COMMUNICATIONS & ELECTRICAL SUPPLIES										
GOREE'S CABLE CONSTRUCTION INC										
GRAYBAR ELECTRIC CO										
GRESKO/CAPSTONE UT SUPP (*Long del. Times	\$ 2.07	\$10,350.00	\$ 2.23	\$11,150.00	\$ 6.65	\$33,250.00	14-18 wks	Prysiam	Net 30	--
GT KEY CO INC										
H D SUPPLY POWER SOLUTIONS LTD										
INLINE ELECTRIC SUPPLY OF MONT, LLC										
INTERSTATE ELECTRICAL SUPPLY										
LAGRANGE WINNELSON										
MAYER ELECTRIC FIN CORP-DOTHAN										
MAYER ELECTRIC SUPPLY CO INC-COLUMBUS										
MOTOROLA SOLUTIONS INC										
OPELIKA BOLT & SCREW INC										
SETCOM										
STUART C IRBY CO	\$ 2.219	\$11,095.00	\$ 3.574	\$17,870.00	\$11.546	\$57,730.00	--	Kerite/Okonite	--	--
T & C SPECIALTY DISTRIBUTORS INC	\$ 2.10	\$10,500.00	\$ 2.40	\$12,000.00	\$ 7.38	\$36,900.00	8 wks	Okonite	--	--
THE COMPETITIVE EDGE.COM										
TRI-STATE UTILITY PRODUCTS INC (*Misquoted	\$ 0.78	\$ 3,900.00	\$ 0.94	\$ 4,700.00	\$ 2.24	\$22,400.00	12-14 wks	Southwire	Net 30	--
WAGNER SMITH EQUIPMENT CO										
WALKER AND ASSOCIATES INC										
WESCO DISTRIBUTION INC	\$ 2.24	\$11,200.00	\$ 3.61	\$18,050.00	\$ 11.66	\$58,000.00	5-6 wks	Kerite	--	--
						(**\$58,300)				

Attachment: 9-20-16 - 15KV PRIMARY UNDERGROUND DISTRIBUTION CABLE 16036 - BID PKT (232-16 :



City Council

204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 233-16

Meeting: 09/20/16 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 1905

Single-Phase Pole Mounted Transformers-OPS

RESOLUTION NO. _____

WHEREAS, the Purchasing Department solicited bids for a Contract for Single-Phase Pole Mounted Transformers for Opelika Power Services; and

WHEREAS, Mayer Electric Financial Corp. is the responsible bidder meeting specifications; and

WHEREAS, this is a budgeted contract from the System Expansion and Upgrades fund;

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

1. That the Contract be awarded to Mayer Electric Financial Corp. on their bid meeting specifications.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Mayer Electric Financial Corp. on an as needed basis.
3. That the Controller is authorized to adjust the budget as necessary for this contract.
4. That the Mayor is hereby authorized to sign all documents pertaining to this contract.

APPROVED AND ADOPTED this the ____ day of _____, 2016.

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

ATTEST:

Bids 233-16

Meeting of September 20, 2016

Robert G. Shuman, CMC
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bid #16034 – We are asking the Council to approve a contract for Single-Phase Pole Mounted Transformers

FACTS:

- Bid opening date – 9/7/16
- User departments – Opelika Power Services
- The bid was mailed to 27 vendors
- 7 bids were received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to Mayer Electric Financial Corp. on their bid meeting specifications on an as needed basis.**

BID#: 16034 DATE: 9/7/16 DEPT: OPELIKA POWER SERVICES									27 VENDORS INVITED	
DESCRIPTION: SINGLE-PHASE POLE MOUNTED TRANSFORMERS									7 BIDS RECEIVED	
	ITEM #1: 5 KVA MINERAL OIL			ITEM #4: 25 KVA MINERAL OIL						
	ITEM #1 ALT: 5 KVA SOY-BASED OIL			ITEM #4 ALT: 25 KVA SOY-BASED OIL						
	ITEM #2: 10 KVA MINERAL OIL			ITEM #5: 37.5 KVA MINERAL OIL						
	ITEM #2 ALT: 10 SOY-BASED OIL			ITEM #5 ALT: 37.5 KVA SOY-BASED OIL						
	ITEM #3: 15 KVA MINERAL OIL									
	ITEM #3 ALT: 15 KVA SOY-BASED OIL									
VENDOR	ITEM #1	ITEM #1 ALT	ITEM #2	ITEM #2 ALT	ITEM #3	ITEM #3 ALT	ITEM #4	ITEM #4 ALT	ITEM #5	ITEM #5 ALT
ABB INC										
AL PRECAST & PIPE SUPPLY LLC										
ANIXTER INC	\$ 721.00	\$ 806.00	\$ 791.00	\$ 876.00	\$ 861.00	\$ 945.00	\$ 991.00	\$ 1,086.00	\$ 1,124.00	\$ 1,254.00
BRASFIELD SALES INC										
CITY ELECTRIC SUPPLY COMPANY										
CONECUH BRIDGE & ENGINEERING LLC										
DELTA-STAR INC										
FLORIDA TRANSFORMER INC										
GARRETT & SON INC										
GRAYBAR ELECTRIC COMPANY										
GRESKO/CAPSTONE UTILITY SUPPLY	\$ 517.00	\$ 593.00	\$ 576.00	\$ 645.00	\$ 624.00	\$ 686.00	\$ 751.00	\$ 827.00	\$ 891.00	\$ 960.00
GT KEY CO INC										
H D SUPPLY POWER SOLUTIONS LTD										
HILTI INC										
HUBBELL POWER SYSTEMS INC										
INTERSTATE ELECTRICAL SUPPLY										
JIM HOVEY PRECAST CONCRETE										
JORDAN TRANSFORMER LLC										
MAYER ELECTRIC FINANCIAL CORP-DOTHAN	\$ 529.00	\$ 669.00	\$ 565.00	\$ 680.00	\$ 582.00	\$ 720.00	\$ 725.00	\$ 855.00	\$ 806.00	\$ 1,106.00
MAYER ELECTRIC FINANCIAL CORP-MONTGOMERY										
MAYER ELECTRIC SUPPLY CO INC-COLUMBUS										
NIAGARA TRANSFORMER CORP										
NORTH NORCROSS										
SIEMENS ENERGY INC										
SOLOMON CORP (*Does not meet specs)	\$ 240.00	\$ 312.00	\$ 365.00	\$ 473.00	\$ 475.00	\$ 619.00	\$ 565.00	\$ 769.00	\$ 735.00	\$ 1,035.00
STUART C IRBY CO	\$ 579.00	\$ 665.00	\$ 632.00	\$ 716.00	\$ 678.00	\$ 758.00	\$ 760.00	\$ 841.00	\$ 968.00	\$ 1,083.00
T & C SPECIALTY DISTRIBUTORS INC										
TRI-STATE UTILITY PRODUCTS INC										
Wesco Distribution, Inc.	\$ 519.00	\$ 559.00	\$ 579.00	\$ 616.00	\$ 625.00	\$ 666.00	\$ 741.00	\$ 792.00	\$ 912.00	\$ 965.00
Howard Industries, Inc.-EA-2465	\$ 404.00	--	\$ 510.00	--	\$ 578.00	--	\$ 716.00	--	\$ 876.00	--
Howard Industries, Inc.-ALT-EA-2466	--	\$ 450.00	--	\$ 581.00	--	\$ 654.00	--	\$ 813.00	--	\$ 1,008.00

BID#: 16034 DATE: 9/7/16 DEPT: OPELIKA POWER SERVICES								27 VENDORS INVITED		
DESCRIPTION: SINGLE-PHASE POLE MOUNTED TRANSFORMERS								7 BIDS RECEIVED		
	ITEM #6: 50 KVA MINERAL OIL				ITEM #9: 25 KVA MINERAL OIL					
	ITEM #6 ALT: 50 KVA SOY-BASED OIL				ITEM #9 ALT: 25 KVA SOY-BASED OIL					
	ITEM #7: 75 KVA MINERAL OIL				ITEM #10: 37.5 KVA MINERAL OIL					
	ITEM #7 ALT: 75 KVA SOY-BASED OIL				ITEM #10 ALT: 37.5 KVA SOY-BASED OIL					
	ITEM #8: 100 KVA MINERAL OIL									
	ITEM #8 ALT: 100 KVA SOY-BASED OIL									
VENDOR	ITEM #6	ITEM #6 ALT	ITEM #7	ITEM #7 ALT	ITEM #8	ITEM #8 ALT	ITEM #9	ITEM #9 ALT	ITEM #10	ITEM #10 ALT
ABB INC										
AL PRECAST & PIPE SUPPLY LLC										
ANIXTER INC	\$ 1,232.00	\$ 1,390.00	\$ 1,671.00	\$ 1,888.00	\$ 1,921.00	\$ 2,245.00	\$ 949.00	\$ 1,121.00	\$ 1,046.00	\$ 1,160.00
BRASFIELD SALES INC										
CITY ELECTRIC SUPPLY COMPANY										
CONECUH BRIDGE & ENGINEERING LLC										
DELTA-STAR INC										
FLORIDA TRANSFORMER INC										
GARRETT & SON INC										
GRAYBAR ELECTRIC COMPANY										
GRESKO/CAPSTONE UTILITY SUPPLY	\$ 1,014.00	\$ 1,135.00	\$ 1,454.00	\$ 1,686.00	\$ 1,800.00	--	\$ 730.00	--	\$ 862.00	--
GT KEY CO INC										
H D SUPPLY POWER SOLUTIONS LTD										
HILTI INC										
HUBBELL POWER SYSTEMS INC										
INTERSTATE ELECTRICAL SUPPLY										
JIM HOVEY PRECAST CONCRETE										
JORDAN TRANSFORMER LLC										
MAYER ELECTRIC FINANCIAL CORP-DOTHAN	\$ 930.00	\$ 1,262.00	\$ 1,425.00	\$ 1,896.00	\$ 1,708.00	\$ 2,415.00	\$ 724.00	\$ 834.00	\$ 884.00	\$ 1,086.00
MAYER ELECTRIC FINANCIAL CORP-MONTGOMERY										
MAYER ELECTRIC SUPPLY CO INC-COLUMBUS										
NIAGARA TRANSFORMER CORP										
NORTH NORCROSS										
SIEMENS ENERGY INC										
SOLOMON CORP (*Does not meet specs)	\$ 915.00	\$ 1,263.00	\$ 1,055.00	\$ 1,571.00	\$ 1,295.00	\$ 1,835.00	\$ 590.00	\$ 794.00	\$ 755.00	\$ 1,055.00
STUART C IRBY CO	\$ 1,117.00	\$ 1,272.00	\$ 1,473.00	\$ 1,836.00	\$ 2,457.00	\$ 2,735.00	\$ 745.00	\$ 831.00	\$ 942.00	\$ 1,059.00
T & C SPECIALTY DISTRIBUTORS INC										
TRI-STATE UTILITY PRODUCTS INC										
Wesco Distribution, Inc.	\$ 1,072.00	\$ 1,158.00	\$ 1,560.00	\$ 1,672.00	\$ 2,434.00	\$ 2,720.00	\$ 761.00	\$ 795.00	\$ 895.00	\$ 957.00
Howard Industries, Inc.-EA-2465	\$ 1,025.00	--	\$ 1,522.00	--	\$ 1,912.00	--	\$ 734.00	--	\$ 902.00	--
Howard Industries, Inc.-ALT-EA-2466	--	\$ 1,203.00	--	\$ 1,767.00	--	\$ 2,249.00	--	\$ 795.00	--	\$ 1,010.00

Packet Pg. 50



City Council

204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 234-16

Meeting: 09/20/16 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 1906

Single-Phase Pad Mounted Transformers-OPS

RESOLUTION NO. _____

WHEREAS, the Purchasing Department solicited bids for a Contract for Single-Phase Pad Mounted Transformers for Opelika Power Services; and

WHEREAS, Gresco/Capstone Utility Supply is the responsible bidder meeting specifications; and

WHEREAS, this is a budgeted contract from the System Expansion and Upgrades fund;

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

1. That the Contract be awarded to Gresco/Capstone Utility Supply on their bid meeting specifications.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Gresco/Capstone Utility Supply on an as needed basis.
3. That the Controller is authorized to adjust the budget as necessary for this contract.
4. That the Mayor is hereby authorized to sign all documents pertaining to this contract.

APPROVED AND ADOPTED this the ____ day of _____, 2016.

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

ATTEST:

Bids 234-16

Meeting of September 20, 2016

Robert G. Shuman, CMC
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bid #16035 – We are asking the Council to approve a contract for Single-Phase Pad Mounted Transformers

FACTS:

- Bid opening date – 9/7/16
- User departments – Opelika Power Services
- The bid was mailed to 27 vendors
- 7 bids were received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to Gresco/Capstone Utility Supply on their bid meeting specifications on an as needed basis.**

[illegible]



City Council

204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 235-16

Meeting: 09/20/16 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 1904

Three-Phase Pad Mounted Transformers-OPS

RESOLUTION NO. _____

WHEREAS, the Purchasing Department solicited bids for a Contract for Three-Phase Pad Mounted Transformers for Opelika Power Services; and

WHEREAS, Gresco/Capstone Utility Supply is the responsible bidder meeting specifications; and

WHEREAS, this is a budgeted contract from the System Expansion and Upgrades fund;

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

1. That the Contract be awarded to Gresco/Capstone Utility Supply on their bid meeting specifications.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Gresco/Capstone Utility Supply on an as needed basis.
3. That the Controller is authorized to adjust the budget as necessary for this contract.
4. That the Mayor is hereby authorized to sign all documents pertaining to this contract.

APPROVED AND ADOPTED this the ____ day of _____, 2016.

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

ATTEST:

Bids 235-16

Meeting of September 20, 2016

Robert G. Shuman, CMC
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bid #16033 – We are asking the Council to approve a contract for Three-Phase Pad Mounted Transformers

FACTS:

- Bid opening date – 9/7/16
- User departments – Opelika Power Services
- The bid was mailed to 27 vendors
- 7 bids were received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to Gresco/Capstone Utility Supply on their bid meeting specifications on an as needed basis.**

BID#: 16033 DATE: 9/7/16 DEPT: OPELIKA POWER SERVICES									27 VENDORS INVITED			
DESCRIPTION: THREE-PHASE PAD MOUNTED TRANSFORMERS									7 BIDS RECEIVED			
			ITEM #1: 75 KVA MINERAL OIL			ITEM #4: 500 KVA MINERAL OIL						
			ITEM #1 ALT: 75 KVA SOY-BASED OIL			ITEM #4 ALT: 500 KVA SOY-BASED OIL						
			ITEM #2: 150 KVA MINERAL OIL			ITEM #5: 750 KVA MINERAL OIL						
			ITEM #2 ALT: 150 SOY-BASED OIL			ITEM #5 ALT: 750 KVA SOY-BASED OIL						
			ITEM #3: 300 KVA MINERAL OIL									
			ITEM #3 ALT: 300 KVA SOY-BASED OIL									
VENDOR			ITEM #1	ITEM #1 ALT	ITEM #2	ITEM #2 ALT	ITEM #3	ITEM #3 ALT	ITEM #4	ITEM #4 ALT	ITEM #5	ITEM #5 ALT
ABB INC												
AL PRECAST & PIPE SUPPLY LLC												
ANIXTER INC			\$ 5,135.00	\$ 6,125.00	\$ 6,121.00	\$ 7,190.00	\$ 7,977.00	\$ 9,457.00	\$ 10,852.00	\$12,667.00	\$15,360.00	\$ 18,306.00
BRASFIELD SALES INC												
CITY ELECTRIC SUPPLY COMPANY												
CONECUH BRIDGE & ENGINEERING LLC												
DELTA-STAR INC												
FLORIDA TRANSFORMER INC												
GARRETT & SON INC												
GRAYBAR ELECTRIC COMPANY												
GRESKO/CAPSTONE UTILITY SUPPLY			\$ 5,135.00	\$ 6,120.00	\$ 6,115.00	\$ 7,185.00	\$ 7,750.00	\$ 9,253.00	\$ 9,780.00	\$11,732.00	\$13,472.00	\$ 16,770.00
GT KEY CO INC												
H D SUPPLY POWER SOLUTIONS LTD												
HILTI INC												
HUBBELL POWER SYSTEMS INC												
INTERSTATE ELECTRICAL SUPPLY												
JIM HOVEY PRECAST CONCRETE												
JORDAN TRANSFORMER LLC												
MAYER ELECTRIC FINANCIAL CORP-DOTHAN			\$ 6,009.00	\$ 8,300.00	\$ 6,539.00	\$ 8,861.00	\$ 7,734.00	\$11,105.00	\$ 10,139.00	\$14,745.00	\$12,723.00	\$ 16,633.00
MAYER ELECTRIC FINANCIAL CORP-MONTGOMERY												
MAYER ELECTRIC SUPPLY CO INC-COLUMBUS												
NIAGARA TRANSFORMER CORP												
NORTH NORCROSS												
SIEMENS ENERGY INC												
SOLOMON CORP (*Does not meet specs)			\$ 4,230.00	\$ 5,790.00	\$ 4,580.00	\$ 6,380.00	\$ 6,275.00	\$ 8,579.00	\$ 8,270.00	\$11,330.00	\$10,355.00	\$ 13,943.00
STUART C IRBY CO			\$ 5,460.00	--	\$ 6,461.00	--	\$ 8,306.00	--	\$ 10,512.00	--	\$13,814.00	--
T & C SPECIALTY DISTRIBUTORS INC												
TRI-STATE UTILITY PRODUCTS INC												
Wesco Distribution, Inc.			\$ 6,900.00	\$ 7,430.00	\$ 7,535.00	\$ 8,070.00	\$ 8,760.00	\$ 9,415.00	\$ 12,635.00	\$13,370.00	\$15,650.00	\$ 16,900.00
Howard Industries, Inc. - EA-2473			\$ 6,056.00	--	\$ 7,667.00	--	\$ 10,347.00	--	\$ 13,651.00	--	\$22,417.00	--
Howard Industries, Inc. - ALT 1 - EA-2474			--	\$ 7,827.00	--	\$ 9,769.00	--	\$ 13,271.00	--	\$17,675.00	--	\$ 28,429.00
Howard Industries, Inc. - ALT 2 - EA-2475			\$ 6,608.00	--	\$ 8,130.00	--	\$ 11,444.00	--	\$ 14,467.00	--	\$21,135.00	--
Howard Industries, Inc. - ALT 3 - EA-2476			--	\$ 8,463.00	--	\$ 10,395.00	--	\$ 14,439.00	--	\$18,424.00	--	\$ 28,444.00

BID#: 16033 DATE: 9/7/16 DEPT: OPELIKA POWER SERVICES									27 VENDORS INVITED			
DESCRIPTION: THREE-PHASE PAD MOUNTED TRANSFORMERS									7 BIDS RECEIVED			
			ITEM #6: 1000 KVA MINERAL OIL		ITEM #9: 500 KVA MINERAL OIL							
			ITEM #6 ALT: 1000 KVA SOY-BASED OIL		ITEM #9 ALT: 500 KVA SOY-BASED OIL							
			ITEM #7: 150 KVA MINERAL OIL		ITEM #10: 750 KVA MINERAL OIL							
			ITEM #7 ALT: 150 KVA SOY-BASED OIL		ITEM #10 ALT: 750 KVA SOY-BASED OIL							
			ITEM #8: 300 KVA MINERAL OIL									
			ITEM #8 ALT: 300 KVA SOY-BASED OIL									
VENDOR			ITEM #6	ITEM #6 ALT	ITEM #7	ITEM #7 ALT	ITEM #8	ITEM #8 ALT	ITEM #9	ITEM #9 ALT	ITEM #10	ITEM #10 ALT
ABB INC												
AL PRECAST & PIPE SUPPLY LLC												
ANIXTER INC			\$ 22,840.00	\$ 26,530.00	\$ 5,971.00	\$ 7,136.00	\$ 7,688.00	\$ 9,110.00	\$ 9,416.00	\$11,087.00	\$12,268.00	\$ 14,984.00
BRASFIELD SALES INC												
CITY ELECTRIC SUPPLY COMPANY												
CONECUH BRIDGE & ENGINEERING LLC												
DELTA-STAR INC												
FLORIDA TRANSFORMER INC												
GARRETT & SON INC												
GRAYBAR ELECTRIC COMPANY												
GRESKO/CAPSTONE UTILITY SUPPLY			\$ 16,885.00	\$ 19,930.00	\$ 5,880.00	\$ 7,131.00	\$ 7,605.00	\$ 9,090.00	\$ 9,430.00	\$11,069.00	\$11,995.00	\$ 15,072.00
GT KEY CO INC												
H D SUPPLY POWER SOLUTIONS LTD												
HILTI INC												
HUBBELL POWER SYSTEMS INC												
INTERSTATE ELECTRICAL SUPPLY												
JIM HOVEY PRECAST CONCRETE												
JORDAN TRANSFORMER LLC												
MAYER ELECTRIC FINANCIAL CORP-DOTHAN			\$ 16,672.00	\$ 22,273.00	\$ 6,359.00	\$ 8,989.00	\$ 7,726.00	\$ 10,579.00	\$ 10,044.00	\$13,533.00	\$11,478.00	\$ 16,464.00
MAYER ELECTRIC FINANCIAL CORP-MONTGOMERY												
MAYER ELECTRIC SUPPLY CO INC-COLUMBUS												
NIAGARA TRANSFORMER CORP												
NORTH NORCROSS												
SIEMENS ENERGY INC												
SOLOMON CORP (*Does not meet specs)			\$ 14,330.00	\$ 18,926.00	\$ 4,580.00	\$ 6,380.00	\$ 6,275.00	\$ 8,579.00	\$ 8,270.00	\$11,330.00	\$10,355.00	\$ 13,943.00
STUART C IRBY CO			\$ 16,813.00	--	\$ 6,389.00	--	\$ 7,860.00	--	\$ 9,648.00	--	\$12,778.00	--
T & C SPECIALTY DISTRIBUTORS INC												
TRI-STATE UTILITY PRODUCTS INC												
Wesco Distribution, Inc.			\$ 19,305.00	\$ 21,275.00	\$ 7,450.00	\$ 8,025.00	\$ 8,550.00	\$ 9,195.00	\$ 12,400.00	\$13,295.00	\$14,865.00	\$ 16,175.00
Howard Industries, Inc. - EA-2473			\$ 28,280.00	--	\$ 7,161.00	--	\$ 9,684.00	--	\$ 12,758.00	--	\$18,361.00	--
Howard Industries, Inc. - ALT 1 - EA-2474			--	\$ 34,764.00	--	\$ 9,251.00	--	\$ 12,546.00	--	\$16,605.00	--	\$ 24,360.00
Howard Industries, Inc. - ALT 2 - EA-2475			\$ 28,139.00	--	\$ 7,943.00	--	\$ 11,100.00	--	\$ 14,481.00	--	\$20,657.00	--
Howard Industries, Inc. - ALT 3 - EA-2476			--	\$ 35,595.00	--	\$ 10,158.00	--	\$ 13,807.00	--	\$18,478.00	--	\$ 26,948.00

BID#: 16033 DATE: 9/7/16 DEPT: OPELIKA POWER SERVICES									27 VENDORS INVITED	
DESCRIPTION: THREE-PHASE PAD MOUNTED TRANSFORMERS									7 BIDS RECEIVED	
	ITEM #11: 1000 KVA MINERAL OIL				ITEM #13: 2500 KVA MINERAL OIL					
	ITEM #11 ALT: 1000 KVA SOY-BASED OIL				ITEM #13 ALT: 2500 KVA SOY-BASED OIL					
	ITEM #12: 1500 KVA MINERAL OIL				ITEM #14: 3000 KVA MINERAL OIL					
	ITEM #12 ALT: 1500 KVA SOY-BASED OIL				ITEM #14 ALT: 3000 KVA SOY-BASED OIL					
VENDOR	ITEM #11	ITEM #11 ALT	ITEM #12	ITEM #12 ALT	ITEM #13	ITEM #13 ALT	ITEM #14	ITEM #14 ALT	DELIVERY	TERMS
ABB INC										
AL PRECAST & PIPE SUPPLY LLC										
ANIXTER INC	\$ 13,712.00	\$ 16,430.00	\$ 18,756.00	\$ 22,290.00	\$ 33,913.00	\$ 38,828.00	\$ 31,750.00	\$ 38,090.00	16 wks	--
BRASFIELD SALES INC										
CITY ELECTRIC SUPPLY COMPANY										
CONECUH BRIDGE & ENGINEERING LLC										
DELTA-STAR INC										
FLORIDA TRANSFORMER INC										
GARRETT & SON INC										
GRAYBAR ELECTRIC COMPANY										
GRESKO/CAPSTONE UTILITY SUPPLY	\$ 13,523.00	\$ 16,412.00	\$ 17,083.00	\$ 21,995.00	\$ 26,848.00	\$ 30,668.00	\$ 29,367.00	\$ 33,690.00	10-12 wks	--
GT KEY CO INC										
H D SUPPLY POWER SOLUTIONS LTD										
HILTI INC										
HUBBELL POWER SYSTEMS INC										
INTERSTATE ELECTRICAL SUPPLY										
JIM HOVEY PRECAST CONCRETE										
JORDAN TRANSFORMER LLC										
MAYER ELECTRIC FINANCIAL CORP-DOTHAN	\$ 16,178.00	\$ 21,544.00	\$ 18,220.00	\$ 24,842.00	\$ 40,311.00	\$ 46,769.00	\$ 46,143.00	\$ 50,376.00	16 wks	
MAYER ELECTRIC FINANCIAL CORP-MONTGOMERY										
MAYER ELECTRIC SUPPLY CO INC-COLUMBUS										
NIAGARA TRANSFORMER CORP										
NORTH NORCROSS										
SIEMENS ENERGY INC										
SOLOMON CORP (*Does not meet specs)	\$ 14,330.00	\$ 18,926.00	\$ 19,880.00	\$ 24,992.00	\$ 25,680.00	\$ 32,112.00	\$ 34,500.00	\$ 42,900.00	3-4 wks	--
STUART C IRBY CO	\$ 14,046.00	--	\$ 18,417.00	--	\$ 34,406.00	--	\$ 29,725.00	--	18-20 wks	--
T & C SPECIALTY DISTRIBUTORS INC										
TRI-STATE UTILITY PRODUCTS INC										
Wesco Distribution, Inc.	\$ 14,725.00	\$ 16,110.00	\$ 23,470.00	\$ 26,200.00	\$ 33,285.00	\$ 35,405.00	\$ 37,220.00	\$ 40,535.00	16-17 wks	--
Howard Industries, Inc. - EA-2473	\$ 23,403.00	--	\$ 31,485.00	--	\$ 49,078.00	--	\$ 43,028.00	--	8-10 wks	--
Howard Industries, Inc. - ALT 1 - EA-2474	--	\$ 30,188.00	--	\$ 40,452.00	--	\$ 59,266.00	--	\$ 52,837.00	8-10 wks	--
Howard Industries, Inc. - ALT 2 - EA-2475	\$ 26,336.00	--	\$ 32,323.00	--	\$ 46,167.00	--	\$ 46,364.00	--	10-12 wks	--
Howard Industries, Inc. - ALT 3 - EA-2476	--	\$ 34,706.00	--	\$ 43,847.00	--	\$ 61,853.00	--	\$ 59,752.00	10-12 wks	--



City Council

204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 236-16

Meeting: 09/20/16 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 1903

Three-Phase Pad Mounted Transformers-1500 KVA Mineral Oil-OPS

RESOLUTION NO. _____

WHEREAS, the Purchasing Department solicited bids for a Contract for Three-Phase Pad Mounted Transformers-1500 KVA Mineral Oil for Opelika Power Services; and

WHEREAS, Stuart C. Irby Co. is the lowest bidder meeting specifications; and

WHEREAS, this is a budgeted contract from the System Expansion and Upgrades fund;

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

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

APPROVED AND ADOPTED this the ____ day of _____, 2016.

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

ATTEST:

Bids 236-16

Meeting of September 20, 2016

Robert G. Shuman, CMC
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bid #16032 – We are asking the Council to approve a contract for Three-Phase Pad Mounted Transformers-1500 KVA Mineral Oil

FACTS:

- Bid opening date – 9/7/16
- User departments – Opelika Power Services
- The bid was mailed to 27 vendors
- 6 bids were received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to Stuart C. Irby Co. on their low bid meeting specifications on an as needed basis.**

BID#: 16032 DATE: 9/7/16 DEPT: OPELIKA POWER SERVICES					27 VENDORS INVITED	
DESCRIPTION: THREE-PHASE PAD MOUNTED TRANSFORMERS-1500 KVA MINERAL OIL					6 BIDS RECEIVED	
	ITEM #1: 1500 KVA MINERAL OIL					
VENDOR NAME	ITEM #1	No-Load Losses (W)	Load Losses (W)	DELIVERY	TERMS	DISC
ABB INC						
AL PRECAST & PIPE SUPPLY LLC						
BRASFIELD SALES INC						
CITY ELECTRIC SUPPLY COMPANY						
CONECUH BRIDGE & ENGINEERING LLC						
DELTA-STAR INC						
FLORIDA TRANSFORMER INC						
GARRETT & SON INC						
GRAYBAR ELECTRIC COMPANY						
GRESKO/CAPSTONE UTILITY SUPPLY	\$ 28,174.00	1,292	11,453	8-10 wks	30 days	--
GT KEY CO INC						
H D SUPPLY POWER SOLUTIONS LTD						
HILTI INC						
HUBBELL POWER SYSTEMS INC						
INTERSTATE ELECTRICAL SUPPLY						
JIM HOVEY PRECAST CONCRETE						
JORDAN TRANSFORMER LLC						
MAYER ELECTRIC FINANCIAL CORP-DOTHAN	\$ 39,500.00	516	14,391	12 wks	--	--
MAYER ELECTRIC FINANCIAL CORP-MTGM						
MAYER ELECTRIC SUPPLY CO INC-COLUMBUS						
NIAGARA TRANSFORMER CORP						
NORTH NORCROSS						
SIEMENS ENERGY INC						
SOLOMON CORP	\$ 25,200.00	2,800	17,234	3-4 wks	--	--
STUART C IRBY CO	\$ 24,070.00	654 @ 85	13,495	4-5 wks	--	--
T & C SPECIALTY DISTRIBUTORS INC						
TRI-STATE UTILITY PRODUCTS INC						
Howard Industries, Inc. (ALT)	\$40,681.00/\$31,151.00	1206/768	10,710/12,975	8-10/10-12 wks	--	--
Wesco Distribution, Inc.	\$ 30,620.00	--	--	--	--	--

Attachment: 9-20-16 - THREE-PHASE PAD MOUNTED TRANSFORMERS-1500 KVA MINERAL OIL 16032 -

RESOLUTION NO. 237-16

Expense Reports from Various Departments.

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
-----	-----	
Heather Middleton-High	H/R	293.52
Tyler Chaffee	E/D	388.26
Gary Fuller	Mayor	5,030.16

-) 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 _____, 2016.

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

ATTEST:

Robert G. Shuman, CMC
City Clerk - City Treasurer

Name

Department

Expense Report

Tyler Chaffee

ECONOMIC DEVELOPMENT

Period Ending

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

Date	Day	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS Itemize Below			ENTERTAINMENT	MISC. EXPENSES	DAILY TOTAL
				AIR, RAIL, ETC.	RENTAL CAR, LIMO, ETC.	LOCAL TAXI, TOLLS & PUBLIC TRANSIT	AUTO EXPENSES	BREAKFAST	LUNCH	DINNER	Itemize Below	Itemize Below	
7/31 - 8/3		Opelika-Atlanta					103.14						103.14
8/4/2016		Opelika					8.1						8.1
8/5/2016		Opelika					9.18						9.18
8/9/2016		Opelika					7.56						7.56
8/11/2016		Opelika					8.64						8.64
8/15/2016		Opelika/Auburn					8.64						8.64
8/18/2016		Opelika					15.12						15.12
8/18/2016		Opelika					8.1						8.1
8/23/2016		Opelika					8.1						8.1
8/25/2016		Opelika					1.62						1.62
8/30/2016		Opelika/Birmingham					122.58						122.58
8/31/2016		Opelika					8.1						8.1
9/1/2016		Opelika					1.62						1.62
9/9/2016		Opelika/Prattville					77.76						77.76
							0						0.00
			0.00	0.00	0	0	0.00	0.00	0.00	0	0	0	388.26

WEEKLY CATEGORY TOTALS\$

WEEKLY TOTAL OF EXPENSES

ITEMIZED ENTERTAINMENT AND BUSINESS MEAL

DATE	NAME AND PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	%OR \$ ALLOCATED TO BUSINESS
					100%
					100%
					100%
					100%
					100%
					100%

NUMBER OF DAYS AWAY FROM HOME

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FROM PERSONAL AFFAIRS

0

NATURE OR PURPOSE OF TRAVEL

Personal Auto Travel Expense

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING, REPAIRS, TEC.	AMOUNT
7/31 - 8/3	191 Opelika-Atlanta Airport SEDC Annual Conference KC	103.14
8/4/2016	15 City Hall - Industrial Park Industrial Park Check	8.1
8/5/2016	17 City Hall - Industrial Park Industrial Park Smoke Check	9.18
8/9/2016	14 City Hall - Hanwha Hanwha Meeting	7.56
8/11/2016	16 City Hall - Industrial Park Industrial Park Check	8.64
8/15/2016	16 City Hall - Industrial Park Industrial Park Check	8.64
8/18/2016	28 Opelika-Auburn ATC Meeting	15.12
8/18/2016	15 City Hall - Industrial Park Industrial Park Check	8.1
8/23/2016	15 City Hall - Industrial Park Industrial Park Check	8.1
8/25/2016	3 City Hall - Kemp & Sons Pick up business cards	1.62
8/30/2016	227 Opelika - Birmingham EDPA Conference	122.58
8/31/2016	15 City Hall - Industrial Park Industrial Park Check	8.1
9/1/2016	3 City Hall - Southern Union Workforce Meeting	1.62
9/9/2016	144 Opelika - Prattville PowerSouth Conference	77.76

Agree To P.O.
 Ext. Verified
 DATE _____ ITEMS _____ AMOUNT _____
 Footing Verified
 Inv. Price Bio Price _____
 Ok To Pay _____
 A/C # Verified _____

METHOD OF REIMBURSEMENT

☐

DEDUCT FROM M' OR

SIGNATURE

APPROVED BY

DEPARTMENT

Name Gary Fuller

Department Mayor's Office 11050

[illegible]

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED, COMPANY, TITLE	TIME & PLACE	NATURE & PUPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS
			Agree To P.O. _____		
			Exts Verified _____		
			Footing Verified _____		
			Inv. Price Bio Price _____		
			Ok To Pay _____		
			A/C # Verified _____		

NUMBER OF DAYS AWAY FROM HOME

7

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

C

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

100%

NATURE OR PURPOSE OF TRAVEL

Economic Development trip

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM MY ADVANCE☒ MAIL: TO

ITEMIZED AUTOMOBILE EXPENSES

[illegible]

ITEMIZED MISCELLANEOUS EXPENSES

PERMITS AND/OR INSURANCE		
DATE	ITEMS	AMOUNT

Gary Fuller

Mayor's office

SIGNATURE

APPROVED BY _____

RESOLUTION NO. 238-16

Designate City Personal Property Surplus & 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.	1	Ea.	2005 Ford Explorer Sport-Trac 1FMZU67KX5UB02696	N/A
2.	1	Ea.	1998 Dodge Ram 3B7HC13Y7WG214764	N/A
3.	1	Ea.	2000 Honda CRV JHLRD2849YC002891	N/A
4.	1	Ea.	1995 Chevrolet Tahoe K15 1GNEK18K8SJ319727	N/A
5.	1	Ea.	2009 Toyota Corolla 1NXBU40E69Z097674	N/A
6.	1	Ea.	1996 Cadillac Deville 1G6KD52Y6TU296834	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 _____, 2016.

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

ATTEST:

Robert G. Shuman
City Clerk - Treasurer

RESOLUTION NO. 239-16

Purchase-(624) Toter 96-Gal EVR II Carts-OES**RESOLUTION NO. _____**

WHEREAS, Opelika Environmental Services desires to purchase six hundred twenty-four (624) Toter 96-Gallon EVR II Universal/Nestable Carts utilizing the NJPA Coop Contract; and

WHEREAS, Wastequip is the Contract Vendor for the six hundred twenty-four (624) Toter 96-Gallon EVR II Universal/Nestable Carts; and

WHEREAS, funding in the amount of \$32,522.67, which includes a shipping and handling charge of \$1,946.67, will come from Small Tools & Minor Equipment;

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

1. That the purchase be awarded to Wastequip utilizing the NJPA Coop Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Wastequip in the amount of \$32,522.67.
3. The Controller is authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to execute all documents pertaining to this purchase.

APPROVED AND ADOPTED this the ____ day of _____, 2016.

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

ATTEST:

Robert G. Shuman
City Clerk - Treasurer



841 Meacham Rd, Statesville, NC, 28677

PHONE: 800-424-0422 FAX: 704-878-0734

WQ-10025997

Sell To:

Contact Name	David Turner	Ship To Name	City of Opelika
Bill To Name	City of Opelika	Ship To	700 Fox Trail
Bill To	700 Fox Trl		Opelika, AL 36801
	Opelika, AL 36801		United States
	United States	Customer Job	NJPA Contract No. 060612-WQI
Email	dturner@opelika-al.gov	Reference	
Phone	(334) 705-5156		

Quote Information

Salesperson	Chance Hennig	Created Date	9/13/2016
Salesperson Email	chennig@wastequip.com	Expiration Date	10/13/2016
Salesperson Phone	(361) 362-4485	Quote Number	WQ-10025997
			Please Reference Quote Number on all Purchase Orders

Model	Product Description	Selected Option	Quantity	Sales Price	Total Price
79296	Model 79296 - Toter 96 Gallon EVR II Universal/Nestable Cart	--Body Color - (968) Greenstone --Lid Color - (200) Black --Body Hot Stamp on Both Sides (Existing) in White --Wheels - 10in Sunburst --Toter Serial Number Hot Stamped on Front of Cart Body in White --2/3 Assembled with Lid (down), Stop Bar and Axle Factory Installed --Warranty - 12 Yrs Cart Body, All other components 10 Yrs	624.00	\$49.00	\$30,576.00

Payment Terms	Net 30 Days	Subtotal	\$30,576.00
Shipping Terms	FOB Origin	Shipping and Handling	\$1,946.67
		Tax	\$0.00
		Grand Total	\$32,522.67

Additional Information

Additional Terms Our quote is a good faith estimate, based on our understanding of your needs. Subject to our acceptance, your Order is an offer to purchase our Products and services in accordance with the Wastequip Terms and Conditions, including our limited warranties, the terms of which are incorporated herein by reference, which constitutes the entire agreement between the parties. The Wastequip Terms and Conditions are available on our website at: <http://www.wastequip.com/terms-conditions.cfm>

Pricing is based on your anticipated Order, including product specifications, quantities and timing - any differences to your order may result in different pricing. Due to volatility in petrochemical, steel and related product material markets, actual prices, as well as freight, are subject to change and will be confirmed prior to acceptance of an Order. Unless otherwise stated, materials and container sizes indicated on sales literature, invoices, price lists, quotations and delivery tickets are nominal sizes and representations - actual volume, Products and materials are subject to manufacturing and commercial variations and Wastequip's practices, and may vary from nominal sizes and materials. All prices are in US dollars; this



841 Meacham Rd, Statesville, NC, 28677

PHONE: 800-424-0422 FAX: 704-878-0734

WQ-10025997

quotation may not include all applicable taxes, brokerage fees or duties.

Wastequip, Toter, Galbreath, Cusco, Accurate, Mountain Tarp, Pioneer, and Parts Place are registered trademarks, trade names and subsidiaries of Wastequip, LLC.

**Additional
Information**

Due to extremely volatile petrochemical and steel markets, actual prices and freight are subject to change and must be confirmed before acceptance of an order. Above pricing is based on orders placed in the quantities stated above. Orders placed for other than these quantities may be subject to additional freight and cost. Unless otherwise stated, container sizes indicated on sales literature, invoices, price lists, quotations and delivery tickets are nominal sizes. Actual volume may vary from nominal sizes. This proposal is subject to Wastequip/Toter standard terms and conditions. Quotation does not include any applicable taxes other than those specifically listed on this document.

**Special Contract
Information**

Pricing is based on Wastequip's National Joint Powers Alliance (NJPA) Contract No. 060612-WQI as awarded on July 17, 2012. Per the terms of the contract, pricing may be amended at any time with proper documentation, and subject to NJPA approval. Pricing may change without written prior notice.

Signatures

Accepted By: _____

Company Name: _____

Date: _____

Purchase Order: _____

Please Reference Quote Number on all Purchase Orders

RESOLUTION NO. 240-16

Weed Abatement Assessment - Avenue B

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
Avenue B Parcel No. 148.000**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at Avenue B, parcel no. 148.000 has been removed as provided for and required by law: and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at Avenue B, a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 20th day of September 2016 at 7:00 p.m. in the City Council Chambers in the

Municipal Building of Opelika, Alabama was the date, time and place heretofore established by the City

Council to hear and determine any objections or defenses which may be raised by any of the property

owners liable to be assessed for the work of abating said weed nuisance; and

WHEREAS, a copy of the itemized statement of expenses, together with the notice of the time when said statement shall be submitted to the City Council for confirmation, was sent to the property owner by certified mail at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property; and

WHEREAS, the Council met at the designated time and place for the purpose of receiving and

considering said statement of expenses and to pass upon all such objections to and protest against the proposed assessment for the work of abating said nuisance; and

WHEREAS, the President of the City Council presided over said public hearing and opened the

floor for comments from the public and any persons interested in said assessment or the amount thereof;

and

WHEREAS, the City Council has considered all evidence and other matters in relation to the

proposed assessment and the members of the Council are of the opinion that the amount to be assessed

against the property shall be in accordance with the amount shown on the statement of expenses heretofore delivered by the enforcing official to the City Council.

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

follows:

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$183.30 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: Avenue B, Parcel no. 148.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-03-08-2-002-148.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge

of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax, using all methods available for collecting ad valorem tax, and remit the amount to the City.

This Resolution and the weed lien assessed herein are adopted pursuant to Act No. 2012-366 of the 2012 Regular Session of the Legislature of Alabama and Article III of Chapter 18 of the Code of Ordinances of the City of Opelika, Alabama.

ADOPTED AND APPROVED this the _____ day of _____, 2016.

President of the City Council
City of Opelika, Alabama

Attest:

R. G. "Bob" Shuman, CMC
City Clerk - City Treasurer

WEED ABATEMENT INVOICE**Date: 09/13/2016****To: Mattie & Albert Chambers
103 Avenue B
Opelika AL 368010****Property Address:
Avenue B (No permanent address)
Opelika AL 36801
Parcel # 10-03-08-2-002-148.000**

On August 12, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>170.32</u>
Certified mail:	<u>12.98</u>
Misc.	<u> </u>
Total	<u>183.30</u>

Attachment: WEED INVOICE (240-16 : Weed Abatement Assessment - Avenue B)

RESOLUTION NO. 241-16

Weed Abatement Assessment - 206 Avenue B

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
206 Avenue B, Parcel No. 118.000**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 206 Avenue B, parcel no. 118.000 has been removed as provided for and required by law: and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 206 Avenue B, a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 20th day of September 2016 at 7:00 p.m. in the City Council Chambers in the

Municipal Building of Opelika, Alabama was the date, time and place heretofore established by the City

Council to hear and determine any objections or defenses which may be raised by any of the property

owners liable to be assessed for the work of abating said weed nuisance; and

WHEREAS, a copy of the itemized statement of expenses, together with the notice of the time when said statement shall be submitted to the City Council for confirmation, was sent to the property owner by certified mail at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property; and

WHEREAS, the Council met at the designated time and place for the purpose of

receiving and

considering said statement of expenses and to pass upon all such objections to and protest against the proposed assessment for the work of abating said nuisance; and

WHEREAS, the President of the City Council presided over said public hearing and opened the

floor for comments from the public and any persons interested in said assessment or the amount thereof;

and

WHEREAS, the City Council has considered all evidence and other matters in relation to the

proposed assessment and the members of the Council are of the opinion that the amount to be assessed

against the property shall be in accordance with the amount shown on the statement of expenses heretofore delivered by the enforcing official to the City Council.

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

follows:

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$262.98 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 206 Avenue B, Parcel no. 118.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-03-07-1-001-118.000 according to the records of the Revenue Commissioner of Lee County Alabama.

4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax, using all methods available for collecting ad valorem tax, and remit the amount to the City.

This Resolution and the weed lien assessed herein are adopted pursuant to Act No. 2012-366 of the 2012 Regular Session of the Legislature of Alabama and Article III of Chapter 18 of the Code of Ordinances of the City of Opelika, Alabama.

ADOPTED AND APPROVED this the _____ day of _____,
2016.

President of the City Council
City of Opelika, Alabama

Attest:

R. G. "Bob" Shuman, CMC
City Clerk - City Treasurer

WEED ABATEMENT INVOICE

Date: 09/13/2016

**To: Fitzgerald Hutchinson/James Robinson
802 Nancy St.
Tuskegee AL 36083**

**Property Address:
206 Avenue B.
Opelika AL 36801
Parcel # 10-03-07-1-001-118.000**

On August 12, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>250.00</u>
Certified mail:	<u>12.98</u>
Misc.	<u> </u>
Total	<u>262.98</u>

Attachment: WEED INVOICE (241-16 : Weed Abatement Assessment - 206 Avenue B)

RESOLUTION NO. 242-16

Weed Abatement Assessment - 1700 1St Avenue

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
1700 1st Avenue Parcel No. 026.000**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 1700 1st Avenue, parcel no. 026.000 has been removed as provided for and required by law: and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 1700 1st Avenue, a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 20th day of September 2016 at 7:00 p.m. in the City Council Chambers in the

Municipal Building of Opelika, Alabama was the date, time and place heretofore established by the City

Council to hear and determine any objections or defenses which may be raised by any of the property

owners liable to be assessed for the work of abating said weed nuisance; and

WHEREAS, a copy of the itemized statement of expenses, together with the notice of the time when said statement shall be submitted to the City Council for confirmation, was sent to the property owner by certified mail at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property; and

WHEREAS, the Council met at the designated time and place for the purpose of receiving and

considering said statement of expenses and to pass upon all such objections to and protest against the proposed assessment for the work of abating said nuisance; and

WHEREAS, the President of the City Council presided over said public hearing and opened the

floor for comments from the public and any persons interested in said assessment or the amount thereof;

and

WHEREAS, the City Council has considered all evidence and other matters in relation to the

proposed assessment and the members of the Council are of the opinion that the amount to be assessed

against the property shall be in accordance with the amount shown on the statement of expenses heretofore delivered by the enforcing official to the City Council.

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

follows:

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$243.73 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 1700 1st Avenue, Parcel no. 026.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-09-06-13-1-002-026.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge

of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax, using all methods available for collecting ad valorem tax, and remit the amount to the City.

This Resolution and the weed lien assessed herein are adopted pursuant to Act No. 2012-366 of the 2012 Regular Session of the Legislature of Alabama and Article III of Chapter 18 of the Code of Ordinances of the City of Opelika, Alabama.

ADOPTED AND APPROVED this the _____ day of _____, 2016.

President of the City Council
City of Opelika, Alabama

Attest:

R. G. "Bob" Shuman, CMC
City Clerk - City Treasurer

WEED ABATEMENT INVOICE**Date: 09/13/2016****To: Kenneth & Reiko Johnson
1700 1st Ave
Opelika AL. 36801****Property Address:
1700 1st Ave
Opelika AL. 36801
Parcel # 09-06-13-1-002-026.000**

On August 10, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>230.75</u>
Certified mail:	<u>12.98</u>
Misc.	<u> </u>
Total	<u>243.73</u>

Attachment: WEED INVOICE (242-16 : Weed Abatement Assessment - 1700 1St Avenue)

RESOLUTION NO. 243-16

Weed Abatement Assessment - 1823 1St Avenue

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
1823 1st Avenue, Parcel No. 033.000**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 1823 1st Avenue, parcel no. 033.000 has been removed as provided for and required by law: and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 1823 1st Avenue, a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 20th day of September, 2016 at 7:00 p.m. in the City Council Chambers in the

Municipal Building of Opelika, Alabama was the date, time and place heretofore established by the City

Council to hear and determine any objections or defenses which may be raised by any of the property

owners liable to be assessed for the work of abating said weed nuisance; and

WHEREAS, a copy of the itemized statement of expenses, together with the notice of the time when said statement shall be submitted to the City Council for confirmation, was sent to the property owner by certified mail at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property; and

WHEREAS, the Council met at the designated time and place for the purpose of receiving and

considering said statement of expenses and to pass upon all such objections to and protest against the proposed assessment for the work of abating said nuisance; and

WHEREAS, the President of the City Council presided over said public hearing and opened the

floor for comments from the public and any persons interested in said assessment or the amount thereof;

and

WHEREAS, the City Council has considered all evidence and other matters in relation to the

proposed assessment and the members of the Council are of the opinion that the amount to be assessed

against the property shall be in accordance with the amount shown on the statement of expenses heretofore delivered by the enforcing official to the City Council.

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

follows:

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$312.98 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 1823 1st Avenue, Parcel no. 033.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-09-06-13-3-000-033.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge

of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax, using all methods available for collecting ad valorem tax, and remit the amount to the City.

This Resolution and the weed lien assessed herein are adopted pursuant to Act No. 2012-366 of the 2012 Regular Session of the Legislature of Alabama and Article III of Chapter 18 of the Code of Ordinances of the City of Opelika, Alabama.

ADOPTED AND APPROVED this the _____ day of _____, 2016.

President of the City Council
City of Opelika, Alabama

Attest:

R. G. "Bob" Shuman, CMC
City Clerk - City Treasurer

WEED ABATEMENT INVOICE

Date: 09/13/2016

**To: Isamel Hernandez
3407 Chilton Ave
Opelika Al. 36801**

**Property Address:
1823 1st Ave
Opelika Al. 36801
Parcel # 09-06-13-3-000-033.000**

On August 10, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>300.00</u>
Certified mail:	<u>12.98</u>
Misc.	<u> </u>
Total	<u>312.98</u>

Attachment: WEED INVOICE Hernandez (243-16 : Weed Abatement Assessment - 1823 1St Avenue)

RESOLUTION NO. 244-16

Anesthesia Assoc. of E. Ala. Refund for Overpayment of Occupational License Fee

Resolution No. _____

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

- 1) That Lillie Finley, Purchasing- Revenue Manager, has investigated and confirmed that said refund request is valid and recommends approval.
- 2) That the Purchasing-Revenue Manager is hereby authorized to prepare and process the appropriate documents so a refund check in the amount of \$3,600.00, can be printed payable to Anesthesia Associates of East Alabama, PO Box 627, Auburn, AL 36831-0627 for Occupational License Fees paid in error in 2016.
- 3) That the City Clerk is hereby authorized to sign and mail said check to the address as detailed in number 2. above.
- 4) That a copy of the Purchasing-Revenue Manager's recommendation is hereto attached as Exhibit "A".

APPROVED and ADOPTED this the _____ day of _____, 2016.

C.E. "EDDIE" SMITH, JR.

PRESIDENT OF THE CITY COUNCIL OF THE

CITY OF OPELIKA, ALABAMA

ATTEST:

ROBERT G. SHUMAN, CMC

CITY CLERK - TREASURER



Revenue Department City of Opelika

REFUND REQUEST

ACCOUNT # 5251

DATE OF REQUEST: 09-08-16

BUSINESS NAME: Anesthesia Associates of East Alabama

ADDRESS: PO Box 627

CITY, STATE ZIP CODE: Auburn, AL 36831-0627

AMOUNT OF REFUND REQUESTED: \$3,600.00

DESCRIPTION OF REQUEST AND REASON FOR REFUND:

Anesthesia Associates of East Alabama is requesting a refund of \$3,600.00 for Occupational License Fee withheld and remitted for first quarter 2016 in error for six doctors. Each of the doctors maintain a business licenses and the license fee is based on gross receipts. Revenue Department has conducted an investigation regarding the request and compared our records with the backup information provided by Anesthesia Associates of East Alabama. I find the request is a legitimate one.


LILLIE FINLEY
PURCHASING/REVENUE MANAGER

RESOLUTION NO. 245-16

Request for a Special Use Permit from T-Mobile.

RESOLUTION NO. _____

WHEREAS, T-Mobile has requested to modify their equipment at an existing wireless telecommunication facility located at 2002 Steel Street, Opelika, AL to provide improved wireless services essentially within the corporate limits and police jurisdiction of the City of Opelika, and;

WHEREAS, T-Mobile has complied with City's Ordinance No. 102-00 and has demonstrated the need for additional modification of this wireless facility to deliver consistently reliable services in the identified area, and;

WHEREAS, both the City and T-Mobile customers in Opelika will benefit from improved service, and;

WHEREAS, the City's consultant, The Center for Municipal Solutions (CMS), recommends the granting of a Special Use Permit for the modification of T-Mobile's equipment at this facility located at 2002 Steel Street, which consist of a 250' self-support tower;

THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama that T-Mobile is hereby granted a Special Use Permit to modify their equipment at the wireless telecommunications facility located at 2002 Steel Street. As recommended by CMS, the Special Use Permit is subject to compliance with the following conditions prior to the issuance of said permit and/or a Certificate of Completion:

1. Prior to issuance of the Building Permit, T-Mobile or the tower owner must submit for review and approval by the City, a certified structural analysis in accordance with ANSI/TIA-222-G with a maximum usage percentage of 100.0% or less. If tower modifications are required for the tower, certified construction drawings for the tower modification must accompany the analysis.
2. To prevent warehousing of permits or authorizations and to assure the best service to the City's residents as expeditiously as possible, the facility must be built, activated and be providing service no later than one hundred eighty (180) days after the

issuance of the Special Use Permit or other applicable authorization, subject to commonly accepted force majeure exceptions acceptable to the City. T-Mobile may petition the City of an extension of this for good cause shown, but the decision whether not to grant the extension shall exclusively be the prerogative of the City.

3. T-Mobile must provide contractor information to CMS and to the City prior to request for issuance of the Building Permit.
4. Once T-Mobile has met all the conditions of the permit and any other requirements of the City and a building permit is issued, T-Mobile must notify the City's consultant for all inspections.
5. At the completion of construction, T-Mobile must notify the City's consultant and provide proof that all inspections have been satisfactorily completed and the project is ready for a final on-site inspection. Upon passing the final inspection, a recommendation to issue a Certificate of Occupancy shall be made.
6. T-Mobile shall not be permitted to actually provide service commercially until the Certificate of Occupancy or its functional equivalent is issued or risk forfeiting its Permit.
7. The Certificate of Occupancy shall not be issued until all fees and costs associated with this Permit, including inspections, have been paid.

ADOPTED and APPROVED this 20th day of September, 2016.

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

ATTEST:

R. G. Shuman, CMC

City Clerk-Treasurer

RESOLUTION NO. 246-16

Contract with Lee Co. Humane Society, Animal Shelter Services - OES.**RESOLUTION NO. _____****RESOLUTION AUTHORIZING CONTRACT FOR ANIMAL SHELTER SERVICES
WITH THE LEE COUNTY HUMANE SOCIETY, INC.**

WHEREAS, State law requires the City of Opelika, Alabama (the “City”) to provide a suitable shelter for the impoundment of all animals found running at large; and

WHEREAS, for many years The Lee County Humane Society, Inc., (the “Society”) has assisted the City with its animal control program by housing, tending, administering and disposing of stray and unwanted animals originating within the City ; and

WHEREAS, the City desires to contract with the Society for animal shelter services; and

WHEREAS, a proposed CONTRACT FOR ANIMAL SHELTER SERVICES (hereinafter the “Contract”) 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 Contract.

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

1. That the proposed CONTRACT between the City and the Society, a copy of which is attached hereto and marked as Exhibit “A”, is hereby approved, authorized, ratified and confirmed in the form substantially submitted to the City Council 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 Contract.

2. That the Mayor and the City Clerk are hereby authorized and directed to execute and deliver said Contract 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 Contract 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 Contract.

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

ADOPTED AND APPROVED this the _____ day of _____, 2016.

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

ATTEST:

CITY CLERK

City of Opelika
Contract Title: Animal Shelter Services

THIS CONTRACT made and entered into by and between **THE CITY OF OPELIKA, ALABAMA**, a municipal corporation, hereinafter referred to as “CITY,” and **THE LEE COUNTY HUMANE SOCIETY, INC.**, an Alabama non-profit Corporation, hereinafter referred to as “LCHS.”

Business: Lee County Humane Society, Inc.
 Address: 1140 Ware Dr, Auburn, AL 36832
 Phone: 334.821.3222
 Fax: 334.821.6374
 Contact: Elizabeth Mueller, President
 Email: muelleh@auburn.edu

STATEMENT OF BACKGROUND INFORMATION

LCHS has for several years assisted the CITY with its animal control program by housing, tending, administering, and disposing of stray and unwanted animals originating within the City.

The CITY has determined it is in the public interest to enter into this Contract with LCHS for such assistance and activities.

PURPOSE OF CONTRACT

WHEREAS, the purpose of this contract is to describe the rights and responsibilities of LCHS and the CITY in respect to the provision of animal shelter services to the CITY, which has no animal shelter services of its own; and

WHEREAS, funds for this purpose are authorized through the annual CITY budget and the Opelika City Council authorized this contract on _____, 2016.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance of the scope of work contained herein, as attached and made part hereof, the CITY and LCHS mutually agree as follows:

1. Scope of Work

LCHS shall independently provide the following Services to the CITY:

- a. LCHS shall furnish animal shelter services to the CITY, in a quality equal to those services traditionally provided to the CITY by LCHS. Animal shelter services shall include sheltering and holding of canines and felines at facilities operated by LCHS, releasing animals to owners, and disposing of animals that are: sick, injured, not deemed adoptable, or for which there is no holding capacity; and not claimed by owners after the period prescribed by the City ordinance, in a responsible and lawful manner (including adoption or destruction). LCHS reserves the right to refuse acceptance of all species of animals other than cats and dogs.

- b. LCHS reserves the right to refuse acceptance of any additional animals from any source once the shelter is deemed by the Shelter Manager or his/her designee as having reached its capacity to provide humane care. The Shelter Manager shall give prompt notice to the City that the shelter has reached capacity and shall redirect any Opelika animals to the City's secondary animal shelters (i.e. Bruce Enterprises and Opelika Animal Hospital).
- c. LCHS reserves the right to refuse acceptance of animals from animal control agents after 3:00 p.m. CITY has right to drop off animals in back kennels at any time after 3:00 p.m. and shall be provided code to combination lock. CITY personnel will check in with staff prior to drop off if staff are present.
- d. LCHS does not accept wildlife.
- e. LCHS shall provide veterinary care at the discretion of the shelter director, or his/her designee. Consistent with the *Code of Alabama* any agent of LCHS may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for which may appear in the judgment of two reputable citizens, called by him to view the same in his presence, to be infirm, injured, or diseased past any useful recovery for any useful purpose. LCHS shall have a policy and procedure to follow in documenting to euthanize and a procedure to follow in attempting to reach the owner. LCHS may recover the costs from the owner of the animal, if identified, for such veterinary treatment.
- f. All animals seized for abuse, cruelty, or neglect must be evaluated by a licensed veterinarian prior to being received by LCHS. Case animals held longer than the seven-day hold period will incur a \$12.00 per night boarding fee that will be invoiced to the CITY and paid promptly by the CITY to LCHS.
- g. Impounded dogs not redeemed by the owner within seven (7) days after impoundment may be processed for adoption or disposed of by LCHS.
- h. Any feral cats will be brought to LCHS in a squeeze cage. The cat will be left in the squeeze cage until disposed of at which time the squeeze cage will be made available for pickup by the CITY.
- i. LCHS further reserves the right to refuse owner surrender if the animal shelter is at maximum capacity. The shelter manager, or his/her designee, shall have the authority to make such determination. The Shelter Manager shall give prompt notice to the City that the shelter has reached capacity and shall redirect any Opelika animals to the City's secondary animal shelters (i.e. Bruce Enterprises and Opelika Animal Hospital).
- j. LCHS shall secure, at its own expense, all personnel necessary to carry out its obligations under the Contract. Such personnel shall not be deemed to be employees of the City.

2. **Compensation**

- a. In consideration of LCHS performing the Services, the CITY agrees to pay to LCHS the Contract sum of \$104,280 to perform the duties and obligations set forth herein during budget year October 1, 2016 through September 30, 2017, with said annual Contract sum to be paid as follows: Equal monthly payments of \$8,690.00 made on or before the 15th day of each month, with the first installment due on October 15, 2016.
- b. LCHS shall utilize said sums only to provide animal sheltering services hereunder.
- c. LCHS shall keep and maintain books and records of the funds spent under the terms of this contract and said books and records shall be made available for inspection by the CITY at all reasonable times and places.
 1. LCHS shall have an annual audit conducted by an independent public accounting firm qualified to perform audits of non-profit organizations. The audit shall be conducted in accordance with generally accepted auditing standards.
 2. A copy of LCHS' audited annual financial statements shall be submitted to the City as provided in section a. above.
- d. As to those animals that have been refused acceptance by LCHS because the shelter has reached capacity or because LCHS has determined that there is a need to have the animal examined by a licensed veterinarian, LCHS shall pay to the City the sum of \$85.00 for each animal rejected or refused admission by LCHS. The City shall invoice LCHS monthly for fees related to rejected animals (\$85.00 per animal). LCHS shall pay said invoices within thirty (30) days of receipt of the same.

3. **Reports.**

LCHS shall submit to the City on or before the 15th day of each month the following monthly reports for the preceding month:

- a. Activity Report (including record owner, address, phone number or person turning in stray)
- b. Intakes by Type Report (stray, returns, etc.)
- c. Intakes by Jurisdiction Report (Auburn, Opelika, Lee County, etc.)
- d. Outcomes by Type Report (i.e. adoption, euthanasia, etc.)

4. Quarterly Meetings.

The parties mutually agree that the President of LCHS or his/her designee and the Director of the Solid Waste Division of the City of Opelika or his/her designee shall meet quarterly to:

- a. review monthly reports
- b. discuss any issues
- c. review number of adoptions and euthanizations
- d. review the length of stay for each adopted or euthanized animal

5. Conditions of Contract

- a. LCHS shall not have the right, authority or power to sell or assign this contract or the powers granted to it or any interests therein, to any other person or party without the consent of the CITY.
- b. LCHS shall be solely responsible for the security and health of the animals released to it by the CITY and shall be solely responsible for any escaped animals or any illness of or injury to said animals while they are in the custody of LCHS.
- c. LCHS agrees to provide Worker's Compensation, Property Damage and Public Liability insurance in terms and amount satisfactory to the CITY. LCHS shall provide the CITY with a certificate of insurance showing it carries the insurance coverage as detailed in Exhibit A. CITY will be named as additional insured.
- d. The City and LCHS will provide assistance to each other whenever possible.
- e. This contract shall become effective on October 1, 2016 and shall be in effect for one year until September 30, 2017.
- f. This contract may be terminated without cause by either party upon forty-five (45) days advance notice in writing to the other party.
- g. This contract may be terminated if any party fails to cure any breach of its obligations hereunder within thirty (30) days of receiving written notice to do so. Written notice of breach should be provided promptly allowing opportunity to cure before issuing thirty (30) days written notice.
- h. In the event of fire, wind, water damage, or any other damage to the facilities to LCHS, reasonably beyond the control of LCHS, which render LCHS unable to perform its duties hereunder ("force majeure event"), LCHS shall not be legally obligated to perform services under this contract, provided it promptly (in any

event, within not less than fifteen days) provides notice to the CITY of the occurrence of such force majeure event. LCHS shall seek diligently and in good faith to overcome or remove such uncontrollable circumstance. The City shall be excused from making any monthly payment required under Section 2 for any period of time that LCHS is unable to perform its obligations hereunder as the result of an uncontrollable circumstance. If such period of nonperformance is less than one month, the monthly payment shall be prorated for the duration of the uncontrollable circumstance.

- i. LCHS shall defend, indemnify and hold the City and its officers, officials and employees from any and all claims, injuries, damages, losses, causes of action, or suits, including attorney's fees, arising out of or in connection with the performance of this Contract, except for injuries and damages caused by the negligence of the City.
- j. Other than as set forth in this Contract, this Contract shall not confer any rights or remedies upon any person other than the Parties and their respective successors or permitted assigns.
- k. The Parties agree that this is not a joint venture or partnership and that neither party shall have the authority to bind or incur liability for the other. In connection with performing services under this Contract, LCHS shall be an independent contractor for the City and neither LCHS nor its employees shall under any circumstances be considered employees, servants or agents of the City. The City shall not be responsible for any negligence, misconduct or wrongdoing by LCHS or its employees, servants or agents while performing under this Contract.
- l. The governing law of this Contract shall be the law of the State of Alabama.
- m. In case one or more of the provisions contained herein shall be invalid, illegal or unenforceable in any respect and for any reason whatsoever, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and in the event any such provision is held to be invalid, illegal or unenforceable, the Parties shall make their best efforts to agree on a provision in substitution for such invalid, illegal or unenforceable provision that is as near an economic benefit as possible to the provision found to be invalid, illegal or unenforceable.
- n. This Contract may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and it shall not be necessary in making proof of this Contract to produce or account for more than one such counterpart.
- o. This Contract constitutes the entire agreement between the Parties hereto and supersedes any prior understandings, agreements or representations by or between the Parties hereto whether written or oral, to the extent that they relate to the subject matter.

- p. It is the intention of the Parties that the commitments and obligations set forth herein shall be binding upon the Parties hereto and their respective successors or permitted assigns.

IN WITNESS WHEREOF, the parties have caused this contract to be executed by those individuals duly authorized on this the _____ day of _____ 2016.

ATTEST:

THE CITY OF OPELIKA, ALABAMA

Its City Clerk

Its Mayor

ATTEST:

THE LEE COUNTY HUMANE SOCIETY

Its Secretary

Its President

Exhibit A

Liability Insurance.

LCHS shall provide and maintain during the life of the contract, General Liability Insurance, Automobile Liability Insurance, Umbrella Liability Insurance and Workers' Compensation Insurance in the following amounts:

1. General Liability Insurance - \$1,000,000 per occurrence or claim, \$1,000,000.00 personal and advertising injury, \$2,000,000.00 general aggregate and \$2,000,000.00 products/completed operations aggregate. If coverage is written on a claims-made basis, it will be kept in effect for a period of two (2) years following the expiration of this agreement.
2. Automotive Liability Insurance - \$1,000,000 combined single limit.
3. Workmen's Compensation Insurance that provides statutory workers' compensation benefits for all its employees and Employers' Liability Coverage with limits of, at a minimum, \$1,000,000.00 each accident, \$1,000,000.00 disease – each employee and \$1,000,000.00 accident, \$1,000,000.00 disease – policy limit.
4. Umbrella Liability (over all of the above, plus Workers Compensation) - \$2,000,000 per occurrence or claim and \$2,000,000 aggregate.
5. The General Liability Insurance, Automobile Liability Insurance, and Umbrella Liability insurance policies shall name CITY as additional insured and the insurer will not cancel or decrease the insurance coverage without first giving the CITY thirty (30) days written notice. CITY reserves the right to modify required coverages in the future if conditions warrant, including higher liability limits and/or broader coverage. In the event CITY exercises this right, LCHS may seek a price increase in accordance with the terms of this agreement. LCHS's insurance is primary.
6. LCHS will be responsible for the payment of any deductibles or self-insured retentions required in the insurance policies listed in this Exhibit.

RESOLUTION NO. 247-16

Contract Renewal with Library Board.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING CONTRACT FOR ACCOUNTING AND
ADMINISTRATIVE SERVICES WITH THE LIBRARY BOARD
OF THE CITY OF OPELIKA, ALABAMA**

WHEREAS, the Library Board of the City of Opelika, Alabama (the “Library Board”) is an unincorporated board organized pursuant to the authority of §§11-90-1 through 11-90-4 of the *Code of Alabama*, 1975; and

WHEREAS, the Library Board has the full power and authority to control the expenditure of funds received or appropriated for library purposes; and

WHEREAS, §11-90-3, *Code of Alabama*, imposes a duty on the Library Board to maintain a careful and complete record and set of books showing the receipts and disbursements in detail of all funds; and

WHEREAS, the library is a department of the City and its employees are employees of the City; and

WHEREAS, the City Council allocates the library’s annual budget; and

WHEREAS, on November 10, 2010, the Library Board and the City of Opelika, Alabama (the “City”), heretofore entered into a Contract for Accounting and Administrative Services; and

WHEREAS, on September 17, 2013, the Library Board and the City renewed and extended said Contract for an additional three (3) years commencing on October 1, 2013 and ending on September 30, 2016: and

WHEREAS, the Library Board and the City desire to renew said Contract for an additional three (3) years commencing October 1, 2016 and ending on September 30, 2019; and

WHEREAS, a proposed Contract for Accounting and Administrative Services 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 Contract.

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

1. That the proposed Contract for Accounting and Administrative Services to be entered into between the City and the Library Board, a copy of which is attached hereto and marked Exhibit “A”, is hereby approved, authorized, ratified and confirmed in the form substantially submitted to the City Council with such changes thereto (by addition, deletion or substitution) as the Mayor shall approve, which approval shall be conclusively evidenced by execution and delivery of said Contract.
2. That the Mayor is hereby authorized and directed to execute and deliver said Contract in the name and on behalf of the City and the City Clerk is hereby authorized and directed to attest the same.
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 Contract.

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

ADOPTED AND APPROVED this the ____ day of _____, 2016.

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

ATTEST:

CITY CLERK

STATE OF ALABAMA)
 : **CONTRACT FOR ACCOUNTING AND**
 COUNTY OF LEE) **ADMINISTRATIVE SERVICES**

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 the Library Board of the City of Opelika, hereinafter referred to as “Library Board”.

RECITALS

WHEREAS, the Library Board is an unincorporated board organized pursuant to the authority of §§11-90-1 through 11-90-4 of the *Code of Alabama*, 1975; and

WHEREAS, the Library Board has the full power and authority to control the expenditures of funds received or appropriated for library purposes; and

WHEREAS, §11-90-3, *Code of Alabama*, imposes a duty on the Library Board to maintain a careful and complete record and set of books showing the receipts and disbursements in detail of all funds; and

WHEREAS, the Library Board desires to enter into an agreement with the City for accounting and administrative services.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and conditions contained herein and other good and valuable consideration of the parties agree as follows:

1. The term of this Contract shall be for a period of three (3) years commencing October 1, 2016 and ending on September 30, 2019. At the end of the term, this Contract may be renewed by mutual agreement between the parties.

2. The City agrees to provide the Library Board the following services:

- a. Provide basic bookkeeping services with recordation of all financial transactions.
 - b. Provide auditing services.
 - c. Reconcile bank accounts.
 - d. Process purchase orders and invoices.
 - e. Provide basis personnel management services including processing of employment applications, processing of insurance claims, maintenance of the personnel records, and processing of payroll accounts.
3. Except as provided herein, the Library Board agrees that it shall:
 - a. Adopt and follow the purchasing policies and procedures of the City.
 - b. Adopt and follow the basic personnel policies and procedures of the City, including the City's affirmative action plan.
4. The Library Board will have the authority to hire, evaluate, discipline and terminate the director, subject to the Mayor's (or his designee's) approval in accordance to City personnel rules and regulations. The director will report directly, through the Library Board, to the Mayor.
5. The director is responsible for the hiring, evaluation and termination of staff, in accordance with City personnel rules and regulations. All library employees, including the director, will be afforded the same employment benefits available to City employees and will be subject in every respect to City personnel rules and/or the policies and procedures established by the City.
6. The Library Board shall have full power to control the expenditures of all funds received or appropriated for library purposes. This power shall be exercised in full compliance

with the City's accounting and purchasing policies. The Library Board shall also comply with the State Competitive Bid Law.

7. The Library Board shall prepare an annual budget in a manner consistent with policies, procedures and accounting system used by the City. The Library Board will present its budget each year to the Mayor in accordance with guidelines established by the Mayor. The City Council will make an annual appropriation to the Library Board for each year for library purposes.

- a. Any funds raised by the library as a result of fines, forfeitures, fees, rentals or sales which are received independently of the City's annual appropriation, shall be deposited in the City's general fund. The Library Board chair person may yearly increase the appropriation to the Library Board from the City, by the amount of any Library Board receipts deposited in the general fund during the preceding year. The amount of any unspent appropriation to the Library Board remaining at the end of the fiscal year will carry over to the next budget year.
- b. Any funds received by the library as a result of honorariums or private donations which are received independently of the City's annual appropriation shall be considered "independent funds". Such funds shall be maintained in a separate bank account and shall be controlled exclusively by the Library Board. Furthermore, such funds shall be segregated and kept apart from the City's annual appropriation. The "independent funds" shall not be considered by the City Council of Opelika in its determination of the annual appropriation to be awarded to the Library Board. It is further agreed that said "independent

funds” may be spent for library purposes in any manner that the Library Board, in its sole discretion, deems reasonable and in the best interest of the library; subject to applicable state and federal laws.

- c. The Library Board will maintain a complete record showing all receipts and disbursements from said separate bank account. The Library Board will make these records available monthly to the City so that such transactions may be promptly recorded. The Library Board will also maintain all trust investments in the same manner and in accordance with the accounting methods and procedures used by the City.

8. The Library Board agrees that upon violation of any of the covenants and agreements herein contained on account of any act of omission or commission of the Library Board the City may, at its option, terminate and cancel this Contract.

9. This Contract 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.

IN WITNESS WHEREOF, the parties have hereunto have caused this Agreement to be executed as of this the ____ day of September, 2016.

THE CITY OF OPELIKA, ALABAMA

By: _____
GARY FULLER, ITS MAYOR

ATTEST:

CITY CLERK

**THE LIBRARY BOARD OF THE
CITY OF OPELIKA, ALABAMA**

By:_____
ITS CHAIRMAN

ATTEST:

ITS

Attachment: Library Contract 090816 (247-16 : Contract Renewal with Library Board)

RESOLUTION NO. 248-16

Transfer Current Year City Council Discretionary Fund Balances.

RESOLUTION NO. _____

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

1) That the Mayor and the Controller is hereby authorized and directed to make the necessary budget adjustment(s) so the remaining current year balance of each City Council discretionary account, for fiscal year 2015-2016, as detailed below, is moved to the appropriate reserve account for each Ward:

Ward I - \$ 8,000.00 Misc. Projects, current year balance.

Ward II - \$ 3,670.00 Misc. Projects, current year balance.

Ward III - \$ 3,270.00 Misc. Projects, current year balance.

Ward IV - \$ 10,000.00 Misc. Projects, current year balance.

Ward V - \$ 6,500.00 Misc. Projects, current year balance.

ADOPTED and APPROVED this the _____ day of _____, 2016.

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

Attest:

R. G. Shuman, CMC
City Clerk - Treasurer

ORDINANCE NO. 122-16-ORD

Lease Agreement, East Central Alabama Highway Safety Office - 2Nd Reading.

ORDINANCE NO. _____

**ORDINANCE APPROVING LEASE AGREEMENT WITH EAST CENTRAL
ALABAMA HIGHWAY SAFETY OFFICE**

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

Section 1. It is hereby established and declared that the following described property of the City of Opelika, Alabama (the "City") is not currently needed for public or municipal purposes, to-wit:

One (1) room on the first floor of the Public Works Administration Building located at 700 Fox Trail, Opelika, Alabama.

Section 2. That the City, having received an offer from East Central Alabama Highway Safety Office to lease said room described in Section 1 above, it is hereby declared to be in the best interest of the public and the City, to lease said office room to East Central Alabama Highway Safety Office at a monthly rental of \$1,900.00 for a term of one (1) year commencing on October 1, 2016 and ending on September 30, 2017.

Section 3. That a proposed Lease Agreement to be entered into between the City and East Central Alabama Highway Safety Office, a copy of which is attached as Exhibit "A", be and the same is hereby approved, authorized, ratified and confirmed in substantially the form submitted to the City Council.

Section 4. That the Mayor and the City Clerk are hereby authorized and directed to execute, attest and deliver said Lease Agreement in the name and on behalf of the City.

Section 5. That this ordinance shall become effective immediately upon its adoption and publication as required by law.

Section 6. That the City Clerk of the City of Opelika is hereby authorized and directed to cause this ordinance to be published one (1) time in a newspaper published in and of general circulation in the City of Opelika, Alabama.

ADOPTED AND APPROVED this the ____ day of _____, 2016.

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

ATTEST:

 CITY CLERK

TRANSMITTED TO MAYOR this the ____ day of _____, 2016.

 CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2016.

MAYOR

ATTEST:

CITY CLERK

STATE OF ALABAMA)
COUNTY OF LEE)

LEASE AGREEMENT

THIS LEASE AGREEMENT (the “Lease”) is made this the 1st day of October, 2016 (the “Effective Date”) by and between the City of Opelika, Alabama, a Municipal Corporation, (hereinafter referred to as “**LANDLORD**”), and East Central Highway Safety Office (hereinafter referred to as “**TENANT**”).

In consideration of the mutual covenants contained herein, **LANDLORD** and **TENANT** agree as follows:

1. **Property leased.** **LANDLORD** hereby leases to **TENANT** and **TENANT** hereby leases from **LANDLORD** for the term and for the terms, covenants and conditions set forth in this Lease, one (1) office room in the Engineering Department located within the Public Works Administration Building located at 700 Fox Trail, Opelika, Alabama, said premises being hereinafter referred to as the “Leased Premises”. Office furnishings to include desks, chairs, tables, bookcases, filing cabinets and other personal items shall be included as part of the Leased Premises.
2. **Term.** The term of this Lease (the “Term”) shall be one (1) year commencing on the effective date and ending on September 30, 2017.
3. **Rent.** **TENANT** agrees to pay **LANDLORD** monthly rent for the term of this Lease in the sum of one thousand nine hundred dollars (\$1,900.00). Rent shall be payable in advance on the 1st day of each month commencing October 1, 2016 and continuing on the 1st day of each month thereafter until the termination of this Lease. Rental payments shall be made to the City of Opelika.

4. Condition of Premises. **TENANT** accepts the Leased Premises in its present, “AS IS” condition. **LANDLORD** shall not be obligated to perform any work, or make any improvements or alterations to the Leased Premises. **TENANT**, during the term of this Lease, shall keep the Leased Premises in clean condition, free of debris and trash.

5. Use. The Leased Premises shall be used by the **TENANT** for commercial/governmental office space as the business office of the Project Director of East Central Alabama Highway Safety Office. The Leased Premises shall not be used for any other purpose without the written consent of **LANDLORD**.

6. Compliance with Laws. **TENANT** shall comply with all laws, orders and regulations of Federal, State, County and Municipal authorities as to its use of the Leased Premises. **TENANT** shall not do, or permit to be done, any act within or upon the Leased Premises which invalidates any fire insurance policies covering the building, fixtures or property therein; and shall not bring or keep anything therein, except not or hereafter permitted by the Opelika Fire Department, the Fire Insurance Rating Organization, or other authority having jurisdiction.

7. Maintenance. The **LANDLORD** agrees to maintain the Leased Premises in a good and safe condition during the term of this Agreement. **TENANT** shall be responsible for any and all damages to the Leased Premises resulting from the willful acts or negligence of the **TENANT** and its agents, employees or invitees.

8. Utilities. **LANDLORD** shall provide and pay the costs of all water, sewer and electrical power, fuel and all other utilities consumed in or at the Leased Premises.

LANDLORD shall provide and pay costs of telephone services and additional Internet connections.

9. Insurance. **LANDLORD** agrees to procure and keep in force during the term of this Agreement, insurance covering the building and **LANDLORD's** property.

LANDLORD's insurance coverage shall not be required to cover any of **TENANT's** property and **TENANT** shall not have any claim against any of the proceeds of **LANDLORD's** coverage.

10. Loss, Damage. **LANDLORD** shall not be liable for any loss, damage or expense to any person or property of **TENANT** or to the property of others given to the **TENANT**. **LANDLORD** shall also not be liable for any theft of **TENANT's** property, nor for injury or damage to persons or property resulting from any cause whatsoever, unless due to the willful acts of **LANDLORD**, its agents, servants and/or employees.

11. No Other Space. **TENANT** is afforded no other space in the building other than the office described above.

12. Indemnification. **TENANT** agrees to indemnify and hold **LANDLORD** harmless from and against any and all liability for any injury to or death of any person or persons or any damaged property in any way arising out of or connected with the use or occupancy of the Leased Premises, or in any way arising out of the activities of the **TENANT**, his employees, guests, and invitees, and from all costs, expenses, liabilities, including, but not limited to, court costs and reasonable attorney's fees incurred by the **LANDLORD** in connection therewith, excepting, however, liability caused by the **LANDLORD'S** gross negligence.

13. Smoking. No smoking is allowed on the Leased Premises. This rule will be strictly adhered to.

14. Alcoholic Beverages. Alcoholic beverages are prohibited on the Leased Premises.

This rule will be strictly adhered to.

15. Care of Leased Premises. TENANT agrees to use due care in the use of the Leased Premises and further agrees that he will not commit waste thereon.

16. Remedies for Default. If TENANT shall fail to pay rent when due, shall default in any other provision of this Lease, or shall abandon the Leased Premises, LANDLORD, in addition to all other remedies provided either at law or in equity, may reenter and take possession of the Leased Premises and remove all persons and property therefrom, without being deemed guilty of any manner of trespass.

All rights and remedies of LANDLORD under this Lease shall be cumulative and none shall exclude any other right or remedy at law. Such rights and remedies may be exercised and enforced concurrently and whenever and as often as occasion therefor arises.

17. Attorney's Fees. LANDLORD shall be entitled to recover reasonable attorney's fees and costs in connection with any action or proceeding to enforce this Lease or otherwise secure any rights due it under this Lease or as may be accorded by law.

18. Relationship that of LANDLORD and TENANT. The Execution of this Lease or the performance of any act pursuant to the provisions thereof shall not be deemed or construed to have the effect of creating between LANDLORD and TENANT the relationship of principle or agent, or of partnership, or of joint venture, and the relationship between them shall only be that of LANDLORD and TENANT.

19. Notices. All notices required to be given to LANDLORD hereunder, shall be delivered to the City of Opelika, 204 Seventh Street South, Opelika, Alabama 36801, or

such other address as **LANDLORD** may direct by written notice forwarded to **TENANT** by certified mail. All notices required to be given **TENANT** shall be delivered to the address written above, or such address as **TENANT** may direct by written notice forwarded to **LANDLORD** by certified mail.

20. Conversion to Tenancy at Will. After the execution of this Lease, this Agreement shall convert to a tenancy at will between the parties hereto and may be terminated at any time without cause upon **TENANT's** giving notice in writing to **LANDLORD**, or **LANDLORD's** giving notice in writing to **TENANT** at least thirty (30) days prior to the termination date.

21. Waiver. The failure of the **LANDLORD** to insist upon strict performance of any of the covenants or conditions of this Lease or to exercise any option herein conferred in any one or more instances shall not be construed as a waiver or relinquishment of any such covenants, conditions or options, but the same shall be and remain in full force and effect. The receipt by the **LANDLORD** of rent, with knowledge of the breach of any covenant hereof, shall not be deemed to have been made unless expressed in writing and signed by the **LANDLORD**.

22. Renewal Options. This Lease may be renewed from year to year on the same terms as provided herein for a maximum period of five (5) years, unless one party gives the other notice it does not intend to renew at least thirty (30) days prior to the end of the lease year.

23. Entire Agreement. This Lease constitutes the entire agreement between the parties hereto, and any change or modification to this Lease shall be in writing and signed by the parties hereto.

24. Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same instrument.

25. Binding Effect. The provisions of this Lease shall be binding upon and shall inure to the benefit of the parties and their respective successors, legal representatives, heirs and assigns.

IN WITNESS WHEREOF, **LANDLORD** and **TENANT** have respectively caused this Lease to be executed by their duly authorized representatives as of the day and year first above written.

CITY OF OPELIKA-- LANDLORD

BY: _____
ITS MAYOR

ATTEST:

CITY CLERK

EAST CENTRAL HIGHWAY SAFETY OFFICE

TERRY HENDERSON, ITS DIRECTOR
TENANT

ORDINANCE NO. 123-16-ORD

Amend Sec. 5-17.1 of Code of Ordinances / Building Permits - First Reading.

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND SECTION 5-17.1 OF THE
CODE OF ORDINANCES OF THE CITY OF OPELIKA, ALABAMA**

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

Section 1. **Amendment.** That Section 5-17.1 of the *Code of Ordinances* of the City of Opelika, Alabama, is hereby amended to read as follows:

Sec. 5-17.1. Building permit fees.

(a) Any person who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building, tenant space or structure or cause any such work to be done shall first make application to the Building Official and obtain the required permits.

(b) There is hereby adopted by the City the following schedule of building permit fees:

	Total Valuation	Fee
(1)	Less than \$1,000.00	No fee unless inspection required, in which case a \$25.00 fee for each inspection shall be charged.
(2)	\$1,000.00 up to and including \$50,000.00	\$8.00 per thousand or fraction thereof.
(3)	Over \$50,000.00 up to and including \$100,000.00	\$400.00 for the first \$50,000.00 plus \$6.00 for each additional thousand or fraction thereof.
(4)	Over \$100,000.00 up to and including \$1,000,000.00	\$700.00 for the first \$100,000.00 plus \$5.00 for each additional thousand or fraction thereof.

(5)	Over \$1,000,000.00	\$5,200.00 for the first \$1,000,000.00 plus \$4.00 for each additional thousand or fraction thereof.
(6)	Moving of building or structure	\$100.00
(7)	Demolition of building or structure	\$50.00
(8)	Where work, for which a permit is required, is started before a permit is obtained, the fee shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein.	
(9)	Re-inspection fees	\$25.00 for second re-inspection \$100.00 for all additional re-inspections.
(10)	Plan review fees. When the building valuation of the proposed construction exceeds two hundred fifty thousand dollars (\$250,000.00) and required plans are submitted in accordance with the building code, a plan review fee shall be paid at the time of submitting plans and specifications for review. The plan review fees shall be eight hundred dollars (\$800.00) for the first five hundred thousand dollars (\$500,000.00) of the total building valuation, plus sixty cents (\$0.60) per one thousand dollars (\$1,000.00) and fraction over five hundred thousand dollars (\$500,000.00). When it is necessary for plan review to be performed by the International Code Congress, Inc., the fee shall be paid directly to it at time of submittal.	

(c) In addition to all City building permit fees required at the time of filing the application, beginning October 1, 2016, the Building Official, pursuant to Act No. 2015-308, shall collect and remit to the Alabama Department of Finance a state-mandated Industry Craft Training program fee on non-residential construction equal to one dollar (\$1.00) for every one thousand dollars (\$1,000.00) of construction authorized.

(d) In addition to all City and state mandated building permit fees required at the filing of the application, the Building Official, pursuant to Section 14-327 of the *Code of Ordinances*, shall collect and remit to the Revenue Officer a license tax equal to one-fourth of one percent (1/4 of 1%) of the total contract price under each contract to be paid for construction work.

(e) All fees for building permits other than a permit to demolish a building shall be calculated on a basis of the true total estimated valuation. In arriving at such true total estimated valuation, the Building Official shall first classify the type of construction and occupancy pursuant to the Building Code of Opelika. Valuation shall be based on the building valuation tables provided by the International Code Council, Inc. ("ICC"), in effect on January 1 of each year. New building permit valuations may be based on the actual contract amount, if bona fide,

as an alternative to the ICC building valuation data tables.

(f) Projects with multiple general contractors shall designate one contractor or construction manager for obtaining and paying for a building permit. The Building Official shall have the authority to approve multiple permits for projects.

Section 2. **Repealer Clause.** All former ordinances or parts thereof conflicting with this ordinance or the section hereby adopted are repealed to the extent that they are in conflict. All remaining portions of said ordinance shall remain in full force and effect.

Section 3. **Severability Clause.** If any section, subsection, 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 portions of this ordinance.

Section 4. **Effective Date.** This ordinance shall become effective and enforced immediately upon its passage and publication as required by law.

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 _____, 2016.

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

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR on this the ____ day of _____, 2016.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2016.

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. (ID # 1884)

Rights-Of-Way Use Agreement with Southern Light, LLC - First Reading.

ORDINANCE NO. _____

**AN ORDINANCE APPROVING RIGHTS-OF-WAY USE AGREEMENT BETWEEN
SOUTHERN LIGHT, LLC AND THE CITY OF OPELIKA, ALABAMA**

WHEREAS, Southern Light, LLC (hereinafter referred to as “Southern Light”) is a fiber-optic based telecommunications company; and

WHEREAS, Southern Light designs, builds, operates and maintains fiber optic infrastructure throughout the Gulf Coast; and

WHEREAS, Southern Light desires to use the public rights-of-way in the corporate limits of the City of Opelika, Alabama (hereinafter referred to as the “City”) in order to construct its network and to provide its communications services; and

WHEREAS, the City and Southern Light have been in negotiations regarding the use of the City’s rights-of-way for the provision of fiber optic services; and

WHEREAS, the City has considered the request of Southern Light and is desirous of granting a non-exclusive right to use the City’s rights-of-way; and

WHEREAS, a proposed Rights-of-Way Use Agreement (hereinafter the “Use 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 Use Agreement.

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

Section 1. That the proposed Use Agreement to be entered into between the City and Southern Light, a copy of which is attached hereto as Exhibit "A", 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 Use Agreement.

Section 2. That Southern Light may utilize the rights-of-way in the corporate limits of the City in order to construct its fiber optic network and to provide its communications service in accordance with and subject to the terms and conditions of the Use Agreement.

Section 3. That the Mayor is hereby authorized to execute and deliver said Use Agreement in the name and on behalf of the City, and the City Clerk is hereby authorized and directed to affix the seal of the City to said Use Agreement and to attest the same.

Section 4. 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 caused 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 or on behalf of the City such other notices, certificates, assurances or other instruments or other communications under the seal or otherwise, as they, or any of them deem necessary or advisable in order to carry into the provisions of this Ordinance and the attached Use Agreement.

Section 5. That the Use Agreement shall be effective in accordance with its terms.

Section 6 That the Ordinance shall take effect immediately upon its passage, adoption and publication as required by law.

Section 7. That this Ordinance shall be published in a newspaper of general circulation in the City of Opelika, Lee County, Alabama. Southern Light shall assume all publication costs with respect to this Ordinance, including the Use Agreement, as such publication is required by law.

ADOPTED AND APPROVED this the ____ day of _____,
2016.

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

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR on this the ____ day of _____, 2016.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2016.

MAYOR

ATTEST:

CITY CLERK

RIGHTS OF WAY USE AGREEMENT

This **AGREEMENT** (hereinafter referred to as "Use Agreement" or "Agreement") is made and entered as of the _____ day of _____, 2016, by and between the City of Opelika, a municipal corporation of the State of Alabama, (hereinafter referred to as "City") and Southern Light, LLC, an Alabama Limited Liability Company, (hereinafter referred to as "Southern Light") (individually "Party" and collectively "Parties").

WHEREAS, Southern Light desires to use the public rights-of-way in the corporate limits of the City in order to construct its network and to provide its communications services; and

WHEREAS, the City has the authority to grant the right to use and occupy the public rights-of-way for such use, to manage and control the rights-of-way, and to obtain fair and reasonable compensation for such use; and

WHEREAS, the City intends to exercise the full scope of its municipal powers, including both its police powers and contracting authority, to promote the public interest and to protect the health, safety, and welfare of the citizens of the City; and

WHEREAS, the City has considered the request of Southern Light and is desirous of granting a non-exclusive right to use the City's rights-of-way for the purposes hereinafter set forth and for no other purposes, subject to the terms and conditions of this Use Agreement; and

WHEREAS, Southern Light has agreed to accept the use of the rights-of-way in accordance with the terms and conditions of this Use Agreement.

NOW, THEREFORE, in consideration of the foregoing clauses, which clauses are hereby made a part of this Use Agreement, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby covenant and agree as follows:

Section 1. Preservation of police power authority; reservation of rights; Southern Light warranties.

(a) *Police powers.* Southern Light, the construction and operation of its network, and its provision of communications services under this Agreement are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and general welfare of the public, including the continuing authority over the construction of the network in the rights-of-way. Southern Light shall comply with all applicable laws enacted by the City pursuant to its police powers, to the extent that they are not preempted by applicable law.

(b) *Right of review.* Nothing in this Agreement shall be deemed to waive a right, if any, that the City, Southern Light, or any person may have to seek judicial or regulatory review as to whether any provision herein may have become invalid or unenforceable as a result of any change in applicable law occurring after the effective date of the Agreement. In such a circumstance, either party's rights under section 21(b) of this Agreement may be applied.

(c) *Southern Light warranties, etc.* Southern Light makes the following representations, warranties, and covenants as the basis for the benefits and obligations contained in this Use Agreement:

- (1) Southern Light is a sole-member limited liability company duly organized, validly existing, and in good standing under the laws of the State of Alabama, is qualified to do business under the laws of the State of Alabama, and has the power and authority to own its properties, to carry on its business as now being conducted, to execute and deliver the acceptance of this Use Agreement, to carry out the transactions contemplated hereby, and to perform and carry out all obligations on its part to be performed under and pursuant to this Use Agreement.
- (2) Southern Light, as of the date of this Use Agreement, has adequate financial resources to construct the network in accordance with the provisions of this Use Agreement, and knows of no technical or legal impediment which would prevent it from performing as contemplated in this Agreement.
- (3) Southern Light, during the term of this Use Agreement, will comply with all applicable laws concerning the construction and operation of the network including all requirements to obtain and comply with the conditions of applicable certificates, licenses, permits, and governmental approvals and applicable environmental-related requirements.
- (4) Southern Light is not prohibited by any agreement or applicable law from executing and delivering the acceptance of this Use Agreement or from discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Use Agreement.
- (5) All corporate actions and consents required on Southern Light's part to execute and deliver the acceptance of this Use Agreement have been completed.

The foregoing covenants, warranties, and representations are material to this Agreement and a breach of all or any of said covenants, warranties, or representations shall constitute a non-curable default under this Use Agreement, and shall entitle the City to immediately terminate the Use Agreement for cause. In the event the Use Agreement is terminated pursuant to this paragraph, Southern Light hereby agrees that the disposition of the network in the rights-of-way shall be governed by applicable provisions of section 10 below.

Section 2. Compliance; City makes no warranty.

- (a) *Compliance with law.* This Agreement will be construed in a manner consistent with all applicable laws.
- (b) *No warranty.* The City makes no express or implied representation or warranty regarding its right to authorize the construction of the network on any particular segment of the rights-of-way or the location or dimensions of any particular segment of the rights-of-way. The burden and responsibility for making all such determinations in advance of construction shall be entirely upon Southern Light.

Section 3. Defined Terms.

The following words, terms and phrases, when used in this Agreement, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning or

unless otherwise more specifically defined in this Agreement. Words in the single number include the plural number, and words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

"Affiliate" or *"affiliated person"* means any person, directly or indirectly, controlling, controlled by, or under common control with Southern Light; provided, however, that affiliate shall not include any limited partner or shareholder holding an interest of less than fifteen percent (15%) of Southern Light, or any creditor of Southern Light solely by virtue of its status as a creditor and which is not otherwise an affiliate by reason of owning a controlling interest in, being owned by, or being under common ownership, common management, or common control with, Southern Light.

"Applicable law" means any or all federal, state, or municipal statutes, ordinances, rules, regulations, standards, and other laws, that are now existing or hereafter adopted, as such laws are amended or as they may be from time to time amended or superseded, which apply to Southern Light's communications services, its network, or the matters covered by this Agreement, including City laws. Where reference is made to a specified law, including a specified City law, the United States Code, and the Code of Federal Regulations, it shall mean and include such laws as amended or as may be from time to time amended or superseded.

"Southern Light" means Southern Light, LLC or the lawful successor, transferee, or assignee thereof.

"Cable Service" has the meaning set forth in 47 U.S.C. Section 522(6).

"City" means the City of Opelika, Alabama, and where necessary for the purposes of the administration and enforcement of this Agreement shall include the City's delegated authorities or representatives authorized to perform as contemplated. The term shall also mean and include where appropriate the Opelika Power Services.

"City laws" mean the duly adopted laws and legislation of the City including the Code of Ordinances of the City and any codes, regulations, standards, or specifications adopted by reference; and shall also include the subdivision regulations and any other such rules or regulations that departments, agencies, commission, boards, or bureaus of the City are authorized to establish; all of which are as amended or as may from time to time be amended or superseded.

"City Attorney" means the City Attorney for the City or his designee.

"City Clerk" means the City Clerk for the City or his designee.

"City Engineer" means the City Engineer for the City or his designee.

"Communications Act" means the federal Communications Act of 1934, as amended (codified at 47 U.S.C. §§ 151 *et seq.*) and as that Act may, from time to time, be hereinafter amended.

"Communications services" mean services, other than cable service or any other multichannel video services, which are available to customers or subscribers, either on a wholesale or retail basis, through facilities that enable the provision, whether bundled or unbundled, of voice, video, data, or advanced communications services, including telecommunications services, information and data services, and

Internet services. The term also includes the lease, license, sale, or other right of use provided to other persons, including other communications service providers, of portions of the network including facilities, fiber (whether dark or lit), or capacity thereon.

"Confidential information" means any written, non-verbal, information or communication for which there is sound legal basis to assert that such information or communication is confidential or proprietary in nature and which has been clearly and conspicuously marked as such by the Party asserting its proprietary or confidential status. The consideration flowing to either Party under this Agreement is not considered to be confidential information.

"Conjunctions". In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either ... or," the conjunction shall be interpreted as follows:

- (1) "And" indicates that all the connected terms, conditions, provisions or events apply.
- (2) "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) "Either ... or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

"Construct or construction" means excavating for, constructing, reconstructing, repairing, rehabilitating, maintaining, installing, relocating, replacing, or removing the network.

"Effective date" means the date of publication of this Agreement.

"Fiber optic installation" means Southern Light's aerial or underground fiber, or fiber-related, installation consisting of all internal and external components, such as wires, cables, ducts, and conduits.

"Gender". Words of one gender include all other genders and also include firms, partnerships, corporations, and other legal entities, as appropriate.

"Gross revenue" means any and all payments made to, or compensation or consideration of any kind or nature, including cash, credits, property, and in-kind contributions (services or goods), derived or received, directly or indirectly by Southern Light, or by any affiliate, from or in connection with the operation or use of the network to provide communications service. Gross revenues include by way of illustration and not limitation information and data services revenue; Internet services revenue; telecommunications services revenue (except that portion of revenues from the provisioning of long distance telephone services which are based on interstate activity unless such revenues are a result of activity which originates or terminates within the City and are charged to a service address within the City); revenue derived or received from the lease, license, sale, or other transfer of use of portions of the network, including facilities, fiber (whether dark or lit) or capacity, by Southern Light or its affiliates to persons, including other communications service providers; any other revenue arising from the operation or possession of this Use Agreement including the right to use and occupancy of the rights-of-way; and any revenue received by Southern Light, by any affiliate of Southern Light, or by any other person through any means which is intended to have the effect of avoiding the payment of compensation that would otherwise be paid to the City for the Use Agreement. The term does not include unrecovered bad debts charged off after diligent

unsuccessful efforts to collect; and taxes of general applicability imposed on the customer or the transactions (but not on Southern Light or any of its affiliates) by federal, state, or local law and required to be collected and remitted by Southern Light or any of its affiliates to the governmental unit, including sales, use, and utility taxes. Gross Revenues shall not include revenues arising from or relating to Telecommunication Services that both originate and terminate outside the corporate limits of the City.

“In”, when used in conjunction with rights-of-way, means over, above, in, within, on, or under rights-of-way.

“Including” or “include” does not limit a term to a specified example.

“Internet” means the combination of Internet protocol-based networks interconnecting millions of computers throughout the world. It allows computers to trade information over public and private networks using telecommunication lines, fiber optic cables, terrestrial wireless networks, and satellite links. It is also referred to as the “net.”

“Internet services” means the offering of direct access and information transport via wireless communications service or wireline communications service to the network of both federal and non-federal interoperable packet-switched, Internet protocol-based data networks to customers for a fee. For purposes of this Agreement, Internet service shall mean the information transport and direct access to the Internet provided to customers over Southern Light’s network and shall include the provision of incidental services or revenues that are required by law to be treated under the same regulation as such direct access service. If it is definitively determined under applicable law by a court or agency of binding jurisdiction that Internet service revenues are not allowed to be included in gross revenues upon which the use fee is based, then Southern Light shall not be required to include such revenues within its calculation of gross revenues for purposes of paying the use fee, provided that Southern Light notify the City in writing of such exclusion and the basis therefor. In such a circumstance, the City shall be entitled to exercise its rights under section 21(b) of this Agreement.

“Multichannel video service” means facilitating the delivery to subscribers of multiple channels of video programming or other programming service, regardless of the technology used to provide it. Multichannel video service specifically includes, but is not limited to, cable service, as such term is defined in Title VI of the Communications Act of 1934, 47 U.S.C. Section 522(6). Multichannel Video

Service includes:

- (1) The one-way transmission to subscribers of (i) video programming or other programming service; and (ii) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service, regardless of whether such transmission, service(s), or interaction relies upon Internet protocol.
- (2) Open video system or “OVS.”
- (3) Any other service using a multichannel video system which is not a telecommunications service or an information service, where under applicable law a franchise or similar permission or approval from the city is required or permitted.

“Multichannel video system” means facilities, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed or used to provide multichannel video services and which is capable of being provided to multiple subscribers within the facilities area, but such term does not include:

- (1) Facilities that serve only to retransmit the television signals of one (1) or more television broadcast stations.
- (2) Facilities that serve subscribers without using any rights-of-way.
- (3) Facilities of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§ 201-226, except that such facility shall be considered a multichannel video system (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facilities are used in the transmission of multichannel video services directly to subscribers.
- (4) Facilities of any electric utility used solely for operating its electric utility system.

“Network”, except as used in the definition of the "Internet" herein, means all or any portion of Southern Light's facilities located in the rights-of-way which are used to provide its communications services, including its fiber optic installation, manholes, equipment, and other component parts or appurtenances.

“Open video services” means any video programming provided to any person by a provider certified by the FCC to operate an open video system pursuant to Section 47 U.S.C. § 573, as may be amended, regardless of the facilities used.

“Person” means any human being, any governmental or political subdivision or public agency, any public or private corporation, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

“Rights-of-way” means the surface of and the space on, above, and below any public street, public road, public highway, public freeway, public lane, public way, public alley, public sidewalk, public boulevard, public parkway, public drive, public utility easement (to the extent of the City's interest or authority), or public rights-of-way now or hereafter held by the City which shall, within its proper use and meaning, entitle Southern Light to the use thereof for the purpose of constructing and operating its network and providing its communications services. This term shall not include any state or federal rights-of-way or any property owned or controlled by any person other than the City, except as provided by applicable law or pursuant to an agreement between the City and any such governmental entity or person. The term shall also not include property owned or leased by the City that is not used or is not typically used as rights-of-way for vehicular or pedestrian transport or the installation of utility facilities, such as City parks, City property, or public works facilities.

“Rights-of-way management” means the exercise of the City's police powers for the purpose of managing and controlling the occupancy of the rights-of-way in order to keep them functioning and operational for their dedicated or intended purpose; maintain them in good condition, order, and repair; control the orderly flow of vehicle and pedestrian traffic; administer their use by public or private users including users' facilities; preserve the public asset; recover costs; and such other

acts reasonably necessary to protect the public health, safety, and welfare.

“Subscriber” means any person, who or which lawfully elects to subscribe for any purpose to a communications service of Southern Light or any of its affiliates and whose premises or facilities are physically wired or otherwise lawfully activated to receive such services from Southern Light's facilities.

“Telecommunications” means the transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

“Telecommunications service” means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public regardless of the facilities used. This term does not include multichannel video service.

“Use fee” means the fee described in subsection 16(a).

“Video programming” means programming provided by or generally considered comparable to programming broadcast station.

“Wireless communications facilities” means facilities used for the transmission or reception of wireless communications services, usually consisting of an antenna array or micro facility, connection cables, an equipment facility, and a support structure such as a tower, monopole, or utility pole to achieve the necessary elevation.

“Wireless communications services” means communications services made available to subscriber through wireless communications facilities, including any FCC licensed or unlicensed radio communications services, whether used for transmission or reception of voice, video, or data, including, wireless fidelity (“WiFi”) and personal wireless services as defined by the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services, including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may in the future be developed. The term does not include broadcast radio or television services.

“Wireline communications services” means communications services made available through wire or fiber facilities.

“Tree regulations” means chapter 27, article II of the City Code as such ordinance may be superseded or amended from time to time and such other regulations as may be now or hereafter adopted or promulgated that establish standards for tree planting, maintenance, or protection of trees in the rights-of-way.

“Visual obstruction regulations” means chapter 26 of the City Code, as such ordinance may be superseded or amended from time to time, and such other regulations as may be now or hereafter adopted or promulgated that govern visual obstructions.

Section 4. Administration.

Administrative authority. In accordance with applicable law, the City or its designees shall have

continuing jurisdiction over construction of the network in the rights-of-way with the right to conduct periodic inspections of the construction of such network, provided such inspection, which shall be solely for the benefit of the City, does not unduly interfere with the network or Southern Light's operations.

Section 5. Enforcement.

(a) *Notice of violation; opportunity to cure.*

(1) If the City is of the opinion that Southern Light is in violation of this Agreement the City shall provide Southern Light with a written notice of violation describing the nature of the violation and requirements for correction.

(2) Within ten (10) business days of receiving a notice of apparent violation, Southern Light shall provide the City with a performance bond in the sum of Twenty-Five Thousand and No/100 Dollars (\$25,000). The performance bond shall insure the faithful performance by Southern Light of all the provisions of this Agreement, and compliance with all orders, permits and directions of the City, and the payment by Southern Light of any claim, penalties, damages, liens and taxes due the City. Any failure by Southern Light to provide a performance bond as required herein shall constitute a separate breach of this Agreement. Once the proceeding addressing the alleged violation has been completed, Southern Light shall be relieved of maintaining the performance bond until such time as another alleged violations notification is received by Southern Light at which time the process shall begin again.

(3) Southern Light shall have thirty (30) days from the receipt of notice to respond to the City in writing contesting the City's assertion of default and providing such information or documentation as may be necessary to support the position OR cure any such default. The time for Southern Light to correct any violation shall be extended by the City if the necessary action to correct such violation is of such a nature as to require more than thirty (30) days within which to perform, provided Southern Light provides written notice that it requires more than thirty (30) days to correct such violations, commenced the corrective action within the thirty (30) day period and thereafter uses reasonable diligence to correct the violation.

(4) During the cure period any action to prosecute the violation, including revocation, of the Agreement, shall be held in abeyance

(5) In the event that the City finds that Southern Light failed to respond to the violation notice, the City shall promptly schedule a public hearing to consider that matter. The City shall provide written notice at least fifteen (15) business days prior to the date of the hearing. Southern Light shall be provided reasonable opportunity to offer evidence and be heard at such public hearing.

(6) In the event that the City, after a public hearing, determines that a continuing state of default exists and that its cure is unlikely, the City may determine to pursue one (1) of the following: access liquidated damages; determine the amount of actual damages to the City and draw upon all or any appropriate part of the performance bond provided herein; seek specific performance of any provision of this Agreement which reasonably lends itself to such remedy; pursue a separate action for damages in a court of competent jurisdiction; pursue the procedures for revocation of this Agreement; or invoke any other lawful remedy available to the City.

(7) If the City draws upon the performance bond or any subsequent performance bond delivered pursuant hereto, in whole or in part, the City shall provide written notice of such draw to

Southern Light and Southern Light shall replace or replenish to its full amount the same within thirty (30) days after such notice.

(8) If the City determines that a default exists after a public hearing, Southern Light shall have the right to a de nova review of such decision in any court of competent jurisdiction.

(b) *Dispute resolution between the Parties.* Except as otherwise provided for in this Agreement, the Parties shall make diligent good faith efforts to resolve all issues and disputes that arise in the administration of this Agreement through discussions between designated representatives of the Parties.

(c) *Revocation.*

(1) In addition to all other rights or remedies which the City has pursuant to law or equity or under this Agreement, and subject to applicable law, the City reserves the right to revoke this Agreement, and all rights and privileges pertaining thereto, in the event that:

a. Southern Light is in violation of any material provision of this Agreement and the violation is not capable of being cured or Southern Light has not, to the City's satisfaction, refuted or excused the failure to comply or has not complied with the cure provisions set forth hereinabove in subsection (a).

b. Southern Light has engaged in an evasion or attempt to evade any material provision of this Agreement and fails or refuses to cure it.

c. Southern Light has perpetrated or attempted to perpetrate any fraud or deceit upon the City.

d. There is any material misrepresentation of fact by Southern Light in the application for, negotiation or renegotiation of, or renewal of, the Agreement.

(2) Prior to revoking the Agreement the City Council shall schedule a hearing on the matter and Southern Light shall be given at least thirty (30) days advance notice of the date and time for the hearing and the grounds for revocation. At such hearing Southern Light shall have the right to be heard on the matter and may present evidence on its behalf including proof refuting or excusing the violation.

(3) Within thirty (30) days of the conclusion of the hearing the City Council may adopt a resolution revoking the Agreement where it finds that there is a basis to do so and Southern Light shall, thereafter, be notified in writing of the Council's decision.

(d) *Enforcement; attorneys' fees.* Unless prohibited by applicable law, the City shall be entitled to enforce this Use Agreement through all remedies lawfully available, and Southern Light shall pay the City's costs of enforcement, including reasonable attorneys' fees, in the event that Southern Light is determined judicially to have violated the provisions of this Use Agreement.

Section 6. Grant.

(a) *Grant.*

(1) Subject to the requirements of this Agreement and applicable law, Southern Light is hereby granted by the City, where the City has the right and authority to do so, the non-exclusive right to use the rights-of-way to construct its network and to operate its network in order to provide communications services and for no other purpose. This Agreement does not grant to Southern Light, or any of its affiliates or any other person providing services over its network, the right to use the rights-of-way or to use Southern Light's network in the rights-of-way, to provide cable service or any other multichannel video services. The City makes this grant without reducing its police powers and expressly reserves the right to adopt and enforce, now and in the future, in addition to the provisions of this Use Agreement and existing laws, ordinances, and regulations, such additional laws, ordinances, and regulations as it may find necessary in the exercise of its police power to provide for the health, safety, or welfare of the public.

(2) Southern Light agrees that its network will be a fiber-optic network of current and modern design with broadband capacity meeting or exceeding the capacity set by the federal government as broadband. Southern Light further agrees that the total outside diameter of the entire fiber optic installation at any given point in the right-of-way shall not exceed four (4) inches, not including, handholds, concrete encasements allowed, or required by the City Engineer or other authorities having jurisdiction.

(3) Subject to applicable provisions of this Agreement, the location and construction details of each part of the network shall be subject to the approval of the City Engineer, in accordance with the plans and specifications submitted to and approved by the City Engineer, as such plans and specifications may be modified from time to time with the approval of the City Engineer.

(4) Notwithstanding any provision of this Agreement to the contrary, this Agreement does not grant to Southern Light the right to install in the rights-of-way any tower or pole of any type, or to otherwise install in the rights-of-way wireless communications facilities absent a Permit as issued by the City.

(5) Notwithstanding anything contained in this Agreement to the contrary, Southern Light agrees that neither it nor any affiliate, nor any other person using its network to provide service in the City, will be providing, through Southern Light's network or facilities in the rights-of-way, cable service or any other multichannel video services, that no other person will be providing cable service or any other multichannel video services through Southern Light's network, and that the grant of this Agreement does not relieve Southern Light from any obligation it may have now or in the future to obtain a franchise, license, or other right to use the rights-of-way for the provision of cable service or any other multichannel video services. In the event Southern Light, any affiliate or any other person using Southern Light's network intends to commence providing services or to conduct any other activity not authorized by this Use Agreement, it must first obtain a separate franchise, license, or other right of use agreement, or, where appropriate, an amendment to this Agreement.

(6) The use of the rights-of-way authorized by this Agreement shall in all matters be subordinate to the City's use and rights.

(b) *Nonexclusive.* Southern Light's use of the rights-of-way pursuant to this Agreement shall

be nonexclusive. The City specifically reserves the right to grant, at any time and from time to time, such additional use agreements or other rights to use the rights-of-way for any purpose as determined by the City, and to any other person, including itself, as it deems appropriate, subject to applicable law.

(c) *No title.* This Agreement shall not convey title, equitable or legal, in the rights-of-way, and Southern Light acknowledges it receives under this Agreement only the right to occupy rights-of-way only for the specific purposes and for the specified period stated in this Agreement and as may be further limited by the specific terms of the Agreement. This Agreement and the rights granted hereunder do not excuse Southern Light from obtaining appropriate access or attachment agreements before locating its facilities on another person's poles, conduits or other facilities, including the City and/or Opelika Power Services.

(d) *Permits.* Nothing in this Agreement shall be construed to relieve Southern Light from obtaining licenses and permits required by applicable City law.

(e) *No vested right to City location; priority of use.*

(1) Southern Light acknowledges by acceptance of this Agreement that it obtains through this Agreement no rights to or further use of the rights-of-way other than those expressly stated herein. This Agreement does not give to Southern Light any vested right in any facilities' particular location for its network, and Southern Light acknowledges and accepts at its own risk, provided that the City has the legal authority for the use or uses in question, that the City may make use in the future of the rights-of-way in which Southern Light's network is located in a manner inconsistent with Southern Light's use of such rights-of-way for its placement and use of its network, and that in such event Southern Light will not be entitled to compensation from the City. If Southern Light occupies private property by way of a private easement and that property is taken for or otherwise becomes rights-of-way, then Southern Light shall retain the right to occupy the easement subject to the City's right of condemnation.

(2) This Agreement does not confer upon Southern Light any priority over the use of the rights-of-way. In the event of a dispute as to priority of use of the rights-of-way the first priority shall be to the public generally, the second priority to the City and its agencies, the third priority to the State of Alabama and its political subdivisions in the performance of their various functions, and thereafter, as between franchisees, licensees and others having the right to use the rights-of-way, as determined by the City in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Alabama.

(f) *Records and reports.* Southern Light shall cooperate with the City with respect to the administration of this Agreement and to this end, subject to section 8 concerning confidential information, shall furnish or make available to the City upon request, at no cost to the City, such records, reports, and other information reasonably necessary, as determined by the City, for the administration and enforcement of this Agreement and in such form and manner as prescribed by the City.

Section 7. Acceptance; publication; exhibits.

(a) *Acceptance.* This Agreement shall not be effective until an unconditional acceptance by Southern Light of its terms and conditions is filed with the City within thirty (30) days after approval by the City of the Agreement, or such other time as the City might allow, and publication of the Agreement takes place in accordance with applicable law and the provisions of this section. Southern Light's acceptance shall be

accomplished by delivery of a signed Agreement by a person having the authority to bind Southern Light, proof of insurance coverage, posting of security if required by the City, payment of any amounts due at signing, and other requirements as may be included in this Agreement.

(b) *Publication.* This Agreement shall be published in a newspaper having general circulation in the City. Such publication shall be done by or at the direction of the City Clerk of the City and the expenses thereof shall be paid in advance by Southern Light or Southern Light shall make arrangements with the newspaper to be billed directly.

(c) *Incorporation of exhibits.* This Agreement hereby incorporates by reference all exhibits appended hereto.

Section 8. Confidential Information.

(a) *Acceptance of public records law.* Southern Light acknowledges and understands that the City, as a municipality, is subject to laws governing the disclosure of public records including disclosure or release of the contents of this Agreement. The City will comply with applicable law concerning confidential information clearly identified as such by Southern Light. Notwithstanding anything to the contrary in this Agreement, all obligations of the City in this section are subject to, and limited by, the requirements of Alabama open records laws.

(b) *Release of confidential information.* Where the release of confidential information to a third party is necessary for rights-of-way management purposes, the City and Southern Light shall mutually agree on what, if any, such information can be released to the third party. The City will confer with Southern Light prior to releasing any confidential information.

(c) *City responsibility.* The City's responsibility to maintain confidential information as set forth in this section shall not apply to any such information which (i) becomes publicly available other than through the disclosing Party; (ii) is required to be disclosed by applicable law or by administrative or judicial order; (iii) is independently developed by the receiving Party; or (iv) becomes available to the receiving Party without restriction from a third party.

(d) *Disclosure of confidential information.* Notwithstanding anything to the contrary in this Agreement, the City may disclose, as necessary, any confidential information to its officials, officers, boards, commissions, agencies, employees, agents, representatives, or contractors in order to administer or enforce this Agreement, or otherwise for rights-of-way management purposes.

(e) *Continuing obligation concerning confidential information.* The provisions of this section shall survive expiration, termination, or revocation of this Agreement.

Section 9. Construction.

Construction in and use of the rights-of-way and related activities for the network shall be governed by Exhibit A. Southern Light shall be responsible for any construction or construction-related activity, including restoration and repair of the rights-of-way, performed by others on its behalf.

Section 10. Rights and obligations upon termination of this Agreement or abandonment of network.

(a) *Termination, revocation, expiration, and abandonment.* Upon termination, revocation, or expiration of this Agreement, or by abandonment of the network, all rights and obligations between the City and Southern Light created by this Agreement shall cease other than (1) the obligation to pay outstanding fees and other amounts due to the City; (2) maintain security until released by the City or otherwise in accordance with this Agreement; (3) defense and indemnification obligations as set forth in this Agreement; and (4) such other provisions in this Agreement which expressly provide for survival beyond the term thereof. The disposition of Southern Light's network, including removal, and restoration of the rights-of-way and other public or private property shall be governed by applicable law and this Agreement.

(b) *Operation after termination; holding over.* Notwithstanding anything to the contrary contained in this Agreement, in the event Southern Light, at the sufferance of the City, holds over beyond the term of this Agreement and continues to operate all or any part of its network, provide all or any of its communications services, or otherwise exercise all or any of the rights granted hereunder, after the term of this Agreement, then Southern Light shall continue to comply with and be subject to all applicable provisions of this Agreement, including all compensation and other payment provisions, throughout the period of such holding over, provided that any such holding over shall in no way be construed as a renewal or other extension of the Agreement. In the event the term of this Agreement has expired and the Parties are in the process of re-negotiating a renewal of this Agreement or negotiating a new agreement relative to Southern Light's network or communications services, or as they may otherwise agree, this Agreement shall continue on a month-to-month basis.

Section 11. Damages and defense.

(a) *Hold harmless and indemnification.*

(1) Southern Light by its acceptance of this Agreement agrees to and does thereby indemnify, defend, and hold the City and the City's present and future officers, elected or appointed officials, council, boards, commissions, agents, representatives, volunteers performing authorized City functions, and employees whole and harmless from and against all claims, costs, losses, expenses through appeal (including reasonable attorneys' fees, and costs or expenses incidental to the investigation of claims and lawsuits), demands, payments, suits, actions, recoveries, penalties, fines, liabilities, judgments, and damages, of any nature and description, including any suit or claim for personal injury, property damage, defamation, antitrust, errors and omission, theft, fire, royalties, license fees, or infringement of copyright or patent rights, resulting from or arising out of or by reason of: (1) Southern Light's actions pursuant to this Agreement and the rights awarded hereunder, or the procedures leading thereto, (2) any act or omission of Southern Light, its agents, employees, representatives, contractors, or sub-contractors, including in the construction or operation of, or the provision of service over, the network in the City, or any portion thereof, (3) any failure by Southern Light to comply with any applicable law or the terms and conditions of this Agreement, (4) Southern Light's performance under this Agreement including the provisioning of its communications services, (5) the use of portions of the network by other persons, including other communications service providers, or (6) the presence of any hazardous substance or environmental hazard brought into the rights-of-way by Southern Light or by any person acting on its behalf or under the rights granted under this Agreement.

(2) The foregoing obligations of this subsection (a) shall survive the expiration, termination, or revocation of the Agreement.

(b) *Notice.* In order for the City to assert its rights to be indemnified, defended, or held harmless, the City must notify Southern Light within a reasonable time of any claim or legal proceeding which gives rise to such right.

(c) *Defense.* With respect to Southern Light's indemnity obligations set forth in this section and in section 12, Southern Light shall provide the defense of any claims brought against the City by selecting counsel of Southern Light's choice to represent the City and defend the claim, subject to the consent of the City, which shall not be unreasonably withheld. Nothing herein shall be deemed to prevent the City from cooperating with Southern Light and participating in the defense of any litigation by its own counsel at its own cost and expense, provided, however, that after consultation with the City, Southern Light shall have the right to defend, settle, or compromise, at its cost and expense, any claim or action arising hereunder, and Southern Light shall have the authority to decide the appropriateness and the amount of any such settlement, and any such settlement shall include at a minimum a full and final release of all applicable claims against the City and shall include a provision that the settlement does not constitute an admission of wrongful conduct by the City. In the event that the terms of any such settlement do not include a full and final release of the City, Southern Light shall not settle the claim or action. All of Southern Light's right to enter a settlement shall entail only payment of monetary amounts by Southern Light or obligations to be performed fully by Southern Light, and under no circumstances shall Southern Light have the power to bind the City to any obligation to pay any monetary amounts, perform any particular action, or refrain from performing any action (although the City may in its discretion independently agree to any such condition).

(d) *Indemnification not limited.* The indemnification obligations of this Agreement are not limited in any way by limitation of the amount or type of damages or compensation payable by or for Southern Light under worker's compensation, disability or other employee benefits acts, or the acceptance of insurance certificates required by this Agreement, or the terms, applicability, or limitations of any insurance held by Southern Light.

(e) *No waiver of City rights.* The City does not and shall not waive any rights against Southern Light which it may have by reason of Southern Light's indemnification, or because of the acceptance by the City of Southern Light's proof of insurance or deposit with the City of any insurance policies described in this Agreement.

Section 12. Limitation of liability; immunity.

Except to the extent expressly provided for otherwise in this Agreement, the City shall be responsible for its own acts of negligence, or intentional or willful misconduct committed by the City for which the City is legally responsible, subject to defenses, immunities, and limitations of liability provided by applicable law; provided, however, notwithstanding anything to the contrary contained in this Agreement and in no event shall the City, its present and future officers, elected or appointed officials, council, boards, commissions, agents, representatives, volunteers performing authorized City functions, or employees be liable to Southern Light, its affiliates, officers, directors, agents, employees, customers, tenants, licensees, contractors, subcontractors, or assigns for any special, indirect, or consequential damages, including any loss, expense, or damage to profits, business, revenue, or income (whether arising out of the damage to or destruction of the network, in whole or in part, transmission interruptions or problems, any interruption or degradation of service or otherwise), arising in any manner, including the City's negligence, and Southern Light shall indemnify, defend, and save harmless the City and its present and future officers, elected or appointed officials, council, boards, commissions, agents, representatives, volunteers performing authorized City functions, and employees from and against any and all claims, costs, losses, expenses through appeal (including reasonable attorneys' fees

and costs or expenses incidental to the investigation of claims and lawsuits), demands, payments, suits, actions, recoveries, penalties, fines, liabilities, and judgments, of any nature and description, with respect to such special, indirect, or consequential damages. The foregoing obligations of this section shall survive the expiration, termination or revocation of the Agreement.

Section 13. Liability insurance; security.

(a) Insurance.

- (1) *Commercial General Liability.* Southern Light shall, at its sole expense, maintain, throughout the term of this Agreement and any extension or renewal thereof, and such other period of time during which Southern Light operates or is engaged in the removal of the network, (hereinafter referred to as "coverage period") Commercial General Liability Insurance using carriers licensed in the State of Alabama and maintaining a Best rating of not less than "A." Such insurance shall include coverage for premises and operations, underground, collapse and explosion, and products and completed operations, independent contractors, contractual, personal and advertising injury, and broad form property damage and shall name as Additional Insureds the City and the City's present and future officers, elected or appointed officials, council, boards, commissions, agents, representatives, volunteers performing authorized city functions, and employees. Such insurance shall be in the amount of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate covering bodily injury, including death, and property damage. If Southern Light employs independent contractors, Southern Light shall insure that these contractors maintain appropriate levels of insurance and that the City is named as an additional insured under each policy. Insurance will be written on an occurrence basis.
- (2) *Business Automobile Liability.* Southern Light shall, at its sole expense, maintain during the coverage period Business Automobile Liability insurance with a limit of One Million Dollars (\$1,000,000) combined single limit for bodily injury, including death, and property damage covering owned, leased, non-owned, and hired automobiles used in conjunction with its operations under this Agreement. Coverage for loading and unloading shall be provided under either automobile liability or general liability policy forms. Such insurance shall name the City and the City's present and future officers, elected or appointed officials, council, boards, commissioners, agents, representatives, volunteers performing authorized city functions, and employees as Additional Insureds.
- (3) *Workers' Compensation and Employer's Liability.* Southern Light shall, at its sole expense, maintain, during the coverage period, Workers' Compensation coverage as prescribed by the laws of the State of Alabama and Employer's Liability coverage in an amount of not less than One Million Dollars (\$1,000,000).
- (4) *Umbrella or Excess Liability.* Southern Light shall, at its sole expense, maintain during the coverage period Umbrella or Excess Liability insurance in the amount of Two Million Dollars (\$2,000,000). Such insurance shall name the City and the City's present and future officers, elected or appointed officials, council, boards, commissions, agents, representatives, volunteers performing authorized city functions, and employees as Additional Insureds.
- (5) *Evidence of Insurance; deductibles; approval; reservation.* On or before filing its acceptance of this Agreement and upon each policy renewal, Southern Light shall, at no cost to the City, furnish to the City Certificates of Insurance evidencing all of the aforementioned types and

limits of insurance to be in effect. The City reserves the right to require complete, certified copies of all required insurance policies or proof of self-insurance at any time and from time to time, at no cost to the City. Southern Light has the right to maintain reasonable deductibles and the City reserves the right to review and approve such deductibles, which approval shall not be unreasonably withheld or delayed. The policies obtained by Southern Light, and proof thereof, shall be subject to the City's approval. The City reserves the right to review these insurance requirements during the coverage period and to adjust insurance coverages and their limits when deemed necessary and prudent by the City, based upon changes in statutory law, court decisions, or the claims history of the industry, as well as Southern Light.

(6) *Maintenance of Insurance Policies; Southern Light's coverage primary.* The liability insurance policies required under this section, if any, shall be maintained by Southern Light through the coverage period. Each such policy of insurance shall provide that it not be cancelled, not renewed, nor materially changed without sixty (60) days' written notice to the City. An endorsement shall be provided which states that Southern Light's coverage is primary and any other insurance carried by the City, if applicable to a loss, is excess.

(7) *No Limit of Liability.* The legal liability of Southern Light to the City and any person for any of the matters that are the subject of the insurance policy(ies) required by this section, shall not be limited by said insurance policy(ies) or by the recovery of any amounts thereunder.

(8) *Certificate of Insurance.* Certificates of Insurance, if any, shall name the City and the City's present and future officers, elected or appointed officials, council, boards, commissions, agents, representatives, volunteers performing authorized city functions and employees as Additional Insureds, in the case of Commercial General Liability, Business Automobile Liability, and Umbrella or Excess Liability insurance. Worker's Compensation and Employer's Liability insurance shall waive rights of subrogation in favor of the City. Each policy shall contain a provision that coverage afforded under the policies will not be cancelled, changed or not renewed unless at least sixty (60) days prior written notice has been given to the City. All subsequent notices or certificates shall be delivered to the City. All deductibles under said policy shall be the sole responsibility of Southern Light.

(c) *Right to Require Insurance.* If the financial conditions of any company issuing the insurance policy pursuant to this section 13 materially and adversely change, the City may, at any time and from time to time, require that any insurance policy be replaced with such other insurance policy consistent with the requirements set forth in this section.

(d) *Notice.*

(1) Each insurance policy shall contain a covenant or endorsement of the insurer to provide sixty (60) days advance written notice by certified mail of such insurer's intention to cancel, substantially change, or not to renew such policy to both the City and City Attorney, and Southern Light; provided, however, in the event said policy fails to so contain a notice provision to the City and City Attorney then Southern Light shall be responsible for same. Southern Light shall, in the event of any such notice, obtain, pay premiums for, and file with the City and City Attorney written evidence of the issuance of replacement policies prior to the expiration of any such policy.

(2) Failure to carry or keep such insurance in force throughout the period set forth in this section shall constitute a default of this Use Agreement. The City, through its City, reserves the

right to stop any work related to the network until proper evidence of insurance is furnished.

(e) *Commencement of Work.* Southern Light shall not commence any work in the rights-of-way, including the work of constructing its network, until the insurance and letter of credit requirements of this section have been complied with.

Section 14. Term.

The term of this Agreement shall commence upon the effective date and shall continue for up to ten (10) years thereafter, unless renewed, revoked, or terminated sooner as herein provided.

Section 15. Payment to City.

(a) *Use fee.* As compensation for the rights and privileges granted by this Agreement, Southern Light shall pay to the City a use fee of five percent (5%) of gross revenues, which fee shall be paid quarterly in accordance with subsection (b) of this section. Gross Receipts on Telecommunications Services that originate in one municipality and terminate in another shall be evenly apportioned among the two municipalities for purposes of calculating the Use Fee owed to each municipality by the Company, such that the aggregate Use Fee paid by the Company to the two municipalities shall not exceed five percent (5%) of the Gross Receipts on said Telecommunications Services. Southern Light may, subject to, and in a manner consistent with, applicable law, itemize on the subscriber's bill that portion of the bill attributable to the fees imposed pursuant to this subsection (a). Southern Light shall not bill subscribers in the City for franchise or other similar rights-of-way use fees imposed by other franchising authorities.

(b) *Quarterly computation; report.*

(1) Unless otherwise provided for in this Agreement the use fee payments due to the City under this Agreement shall be computed and paid on a quarterly basis, for the preceding quarter, as of March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than thirty (30) days after the dates listed in the previous sentence. Each payment shall be accompanied by a brief report by Southern Light signed by an official of Southern Light who shall certify to its accuracy, showing the basis for the computation and such other relevant facts as may reasonably be required by the City. At the request of the City, payments will be made electronically if technically feasible and at no cost to Southern Light.

(2) For each quarter, the City may require Southern Light to submit a statement, certified as true by the chief financial officer of Southern Light, setting forth its gross revenues by category, and describing what revenues were included and excluded in calculating the use fee, and any adjustments made to gross revenues. The request shall be made by the City no later than thirty (30) days after the given quarterly payment is received, and Southern Light shall have ninety (90) days to respond.

(c) *Inspection and audit; verification.*

(1) *Inspection and audit.* Subject to subsection (c)(2) of this section, the City shall have the right to inspect and audit, upon reasonable written notice, at any time up to three (3) years from the date that this Agreement ends whether by expiration, revocation, or termination, at Southern Light's offices where such records are located, all relevant financial statements and financial records in the form and manner as reasonably prescribed by the City to verify compliance with

the use fee or other payment requirements of this Agreement.

(2) Should Southern Light's financial statements and financial records be located in another city or state, Southern Light shall, upon the request of the City, make such records or information available to the City at a convenient location in the City within a time agreed to by the City. Each Party shall pay its own costs and expenses incurred in connection with any such audit, except in the event there is a final and non-appealable determination of an underpayment of five percent (5%) or more of the amount that was due and payable to the City, in which case, in addition to making full payment of the relevant obligation, Southern Light will promptly pay to the City the actual costs and expenses incurred by the City associated with the audit, including attorneys' fees and the professional services of the auditor to perform the audit; provided, however, Southern Light's obligations to pay such costs and expenses shall be capped at \$15,000.00 for any one audit. The City may not retain any person or entity to perform the audit whose compensation for performing the audit is dependent in any manner upon the outcome of any such audit, including the audit findings, the recovery of fees, or the recovery of any other payments.

(3) Any additional amount due to the City as a result of the audit, including any applicable interest, shall be paid by Southern Light within thirty (30) days after Southern Light receives a written notice from the City accompanied by a copy of the audit report and any other supporting document necessary to determine the alleged amount due is correct.

(d) *Final payment.* Notwithstanding the foregoing, in the event Southern Light quits its operations or network within the City, whether by transfer or otherwise, it shall make a final payment of any amounts owed to the City within ninety (90) calendar days thereof, and shall provide a statement of gross revenues for the calendar year through the date of cessation of the operations or network, which statement shall contain the information and certification required herein above.

(e) *Evasion of use fee prohibited.* Any transactions which have the effect of circumventing payment of the use fee, including evasion of payment of the use fee by non-collection or non-reporting of gross revenues, bartering, or any other means which evade the actual collection of revenues for business pursued by Southern Light, are prohibited.

(f) *Affiliate revenue.* Revenue of an affiliate shall be included in the calculation of gross revenues to the extent the treatment of such revenue as revenue of the affiliate has the effect (whether intentional or unintentional) of evading the payment of fees herein which would otherwise be paid under this Agreement.

(g) *No waiver of City rights.* No acceptance of any payment by the City shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable under the provisions of this Agreement. All amounts paid shall be subject to audit and recomputation by the City in compliance with this Agreement.

(h) *Application of interest.* In the event any payment is not made on the due date, interest on the amount due shall accrue from such date at the annual rate comparable to the then-current rate used by City for late payment of delinquent taxes.

(i) *City office for payment.* Unless otherwise provided for, all remittances for the monies due according to the terms of this Agreement are to be made payable to the City Clerk and mailed or delivered to:

City of Opelika
P.O. Box 390
Opelika, Alabama 36803

Such remittances shall clearly identify or reference this Agreement.

Section 16. Sale or transfer of use agreement.

(a) *Restrictions on sale or transfer.*

(1) Southern Light shall not sell, transfer, lease, assign, sublet, or dispose of, in whole or in part, either directly or indirectly, either voluntarily or by force or involuntary sale, or ordinary sale, consolidation, transfer of control of Southern Light or any of its affiliates through merger or equity sale, or otherwise (except for a transfer in trust, mortgage, or other instrument of hypothecation, in whole or in part, to secure an indebtedness, or for a pro forma transfer to a corporation, partnership, or other entity controlling, controlled by, or under common control with Southern Light, including its parent corporation) this Agreement or its network or any of the rights or privileges granted by this Agreement without prior consent of the City, such consent not to be unreasonable withheld or delayed Southern Light shall provide the City with prior written notice: (1) identifying the person (hereinafter referred to in this section as "successor in interest") that will acquire control of Southern Light, or that will acquire the Agreement or the rights, interest, or obligations of Southern Light in the network; (2) a summary of the proposed transaction; and (3) a statement from a person with authority to bind the successor in interest certifying under penalty of perjury that the successor in interest agrees to and accepts, and is able to meet the terms and conditions of this Agreement.

(2) Within forty-five (45) days after the closing of the transaction, or such additional time as the City may allow, Southern Light's successor in interest shall submit to the City: (i) a written certification, executed by an authorized senior officer or executive of Southern Light's successor in interest, certifying under penalty of perjury that (A) the successor in interest accepts and agrees to be bound by, and to assume all liabilities and obligations of its predecessor under, this Agreement, and (B) all required licenses, consents, certificates of public convenience and necessity, or other governmental authorizations issued by the Federal Communications Commission, the Alabama Public Service Commission or any other agency with jurisdiction over the successor in interest's acquisition of an interest in Southern Light's network or services have been obtained; (ii) proof of insurance and the posting of any required security in accordance with section 13 of this Agreement; (iii) the names and addresses of those persons to whom notice should be sent in accordance with section 23 of this Agreement; (iv) the name and contact information of the technical point of contact in accordance with section 7 of Exhibit A; and (v) such other information as may be required by the City in the administration of this Agreement. In the event Southern Light has outstanding compensation, other payments or other liabilities due to the City under this Agreement that have not been paid or satisfied prior to close of the transaction, both Southern Light and its successor in interest shall be jointly and severally liable to the City for same.

(b) *Prior notice not required.* In the normal course of its business Southern Light may enter into agreements with customers, including resellers, that authorize the customers to use capacity or fiber which is located within Southern Light's network. The customer(s)'s rights to use such capacity or fiber will not constitute an assignment, license, lease, or other transfer under subsection (a) above.

provided that Southern Light does not in any way surrender control over its network and remains responsible for its obligations under this Agreement. Nothing in this provision waives the City's right to require Southern Light's customers to obtain any required franchise, license, use agreement, permits, or other applicable authorizations.

Section 17. Representations, warranties, and covenants; validity of Agreement.

Southern Light shall, by its acceptance of this Agreement, warrant and covenant that it has read and understood this Agreement and that it has all requisite authority to obtain and accept the Agreement and provide the communications services authorized hereunder, and that by making such acceptance, expressly agrees that its covenants and warranties are a material condition of the Agreement. Southern Light shall also, by its acceptance of this Agreement, attest to the validity of its terms and conditions in their entirety, and its willingness to voluntarily and without coercion, undue influence, or duress enter into this Agreement.

Section 18. Foreclosure.

Upon the foreclosure or other judicial sale of the Southern Light's network, Southern Light shall notify the City of such fact and such notification shall be treated as a notification that a change in control of Southern Light has taken place, and the provisions of this Agreement governing the transfer or change in ownership shall apply without regard to how such transfer or change in ownership occurred.

Section 19. Receivership.

(a) The City may cancel this Agreement, subject to any applicable law including the Bankruptcy Act, one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Southern Light, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless:

- (1) Within one hundred twenty (120) days after its election or appointment, the receiver or trustee has fully complied with all the provisions of this Agreement and remedied all defaults hereunder; and
 - (2) Such receiver or trustee, within said one hundred twenty (120) days, has executed an agreement, duly approved by a court having jurisdiction, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Agreement.
- (b) *Bankruptcy filing affect.* Consistent with federal law, the filing of a bankruptcy petition alone shall not constitute a material default of the Agreement, provided, however, and subject to valid applicable federal law, in the event of a bankruptcy or other insolvency proceeding, the City retains all existing rights and enforcement authority under the Agreement and its police powers.

Section 20. Compliance with federal, state and city laws; severability.

(a) *Compliance with applicable law.* In addition to the requirements of this Agreement, Southern Light shall adhere to all generally applicable law. Southern Light shall obtain and maintain any necessary and lawful permit, license, certification, grant, registration, or any other authorization

required by any appropriate governmental entity, including the City, the Federal Communications Commission, or the Alabama Public Service Commission.

(b) The Parties agree to consult in the event that any court, agency, commission, legislative body, or other authority of competent jurisdiction issues a finding that limits the validity or enforceability of this Agreement, in whole or in part. Should the finding be final, non-appealable, and binding upon either the City or Southern Light, this Agreement shall be deemed modified or limited to the extent necessary to address the subject of the finding unless either Party, within thirty (30) days of receipt of the ruling, provides written notice to the other Party of election to terminate, in which case this Agreement shall terminate within six (6) months or such earlier period as the Parties mutually may agree. Where the effect of a finding is a modification, the Parties shall enter into good faith negotiations to modify this Agreement in the manner which best effectuates its overall purposes and the intentions of the Parties. Failure to reach a mutually satisfactory modification within ninety (90) days of the commencement of such efforts shall entitle either Party to terminate this Agreement on the provision of thirty (30) days' written notice.

Section 21. Waiver.

Southern Light shall not be excused from complying with any of the terms and conditions of this Agreement by any failure of the City upon one or more occasions to insist upon or to seek compliance with any such terms or conditions, nor shall such failure on the part of the City be construed or held to be a waiver of the City's rights thereafter to strictly enforce any provision of this Agreement, or a waiver of any legal or equitable rights or remedies the City may have in this Agreement, or applicable law.

Section 22. Notices.

All notices or demands pursuant to the Agreement shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested to the following addresses:

If to the City, to:	The Honorable Gary Fuller, Mayor City of Opelika P.O. Box 390 Opelika, Alabama 36803
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If to Southern Light, to:	Southern Light, LLC ATTN: Kelly A. McGriff, General Counsel 107 St. Francis Street, Suite 1800 Mobile, AL 36602
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All notices or demands shall be deemed effective, if personally delivered, upon delivery, and if mailed, certified mail, return receipt requested, three (3) days after mailing. The City or Southern Light may from time to time designate in writing any other address for this purpose to the other Party; provided, however, in no event will either the City or Southern Light be required at any time to send any notices or demands to more than two (2) designated addresses, even in the event that this Agreement is transferred or assigned in whole or part. Nothing herein shall prevent the Parties from effecting personal delivery via e-mail.

Section 23. Rights and remedies cumulative; interpretation; jurisdiction; venue.

(a) *Rights and remedies cumulative.* The rights and remedies of the City shall be cumulative and in addition to any other rights and remedies provided by law or equity. A waiver of a breach or violation of any provision of this Agreement shall not constitute a waiver of any other breach or violation.

(b) *Interpretation; jurisdiction; venue.* This Agreement shall be construed, controlled, enforced, governed, and interpreted in accordance with its plain meaning in accordance with the internal laws of the State of Alabama, without regard to principles of conflicts of laws. For any action concerning this Agreement (a) jurisdiction shall be in the appropriate state or federal courts sitting in Alabama and (b) venue (i) in Alabama state courts shall be in Madison County, Alabama and (ii) in Alabama federal courts shall be in the United States District Court for the Northern District of Alabama, Northeastern Division.

Section 24. Taxes.

(a) The Parties agree that the compensation and other payments to be made pursuant to this Agreement are not a tax and are not in the nature of a tax and are in addition to any and all lawful taxes or other fees or charges (including any fees or charges which may be imposed on Southern Light for the use of poles, conduits, or similar facilities that may be owned or controlled by the City) which Southern Light or any affiliated person shall be required to pay to the City or to any other governmental authority, and nothing herein shall be construed to relieve Southern Light from any obligation under applicable law for the payment of all ad valorem, property, use, and other taxes applicable to its communications services or network.

(b) To the extent taxes or other assessments are imposed on the City by taxing authorities other than the City on the use of City property as a result of a Southern Light's use or occupation of the rights-of-way for its network or of City-owned facilities located in the rights-of-way, Southern Light shall be responsible for payment of such taxes.

(c) Where Southern Light has the right to do so under applicable law, nothing in this Agreement shall be construed to prevent Southern Light from passing through to or collecting from its subscribers taxes paid by it under applicable law.

Section 25. Force Majeure.

Neither the City nor Southern Light shall be responsible for any resulting loss if the fulfillment of any of the terms or provisions of this Agreement is delayed or prevented by revolutions, insurrections, riots, wars, acts of enemies, national emergency, strikes, floods, fires, acts of God, or by any other cause not within the control of the Party whose performance is interfered with which by the exercise of reasonable diligence such Party is unable to prevent, whether of the class of causes enumerated above or not.

Section 26. Captions.

The section and subsection captions contained in this Agreement are for convenience only and shall not be considered in the construction or interpretation of any provision hereof.

Section 27. Calculation of time.

Where the performance or doing of any act, duty, matter, payment or thing is required hereunder and the period of time or duration for the performance or during thereof is prescribed and fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on Saturday, Sunday or a legal holiday observed by the City, that day shall be omitted from the computation.

Section 28. Entire Agreement.

This Agreement constitutes the entire agreement between the City and Southern Light with respect to the subject matter contained herein and supersedes all prior or contemporaneous discussions, agreements, or representations of or between the City and Southern Light regarding the subject matter hereof.

Section 29. No third party rights.

Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits, or remedies upon, or creating any obligations of the Parties hereto toward, any person or entity not a Party to this Agreement.

Section 30. Counterpart Execution.

This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Signature pages may be transmitted by facsimile, and any signature transmitted by facsimile will be given the same force and effect as an original signature.

Section 31. Amendment.

This Agreement may be amended or modified only by a written instrument executed by both Parties.

Section 32. Relationship of the Parties.

The Parties understand, acknowledge and agree that by making and entering into this Agreement, the City is not in any way or for any purpose a partner or joint venturer with Southern Light.

Section 33. Binding effect.

This Agreement shall be binding upon and for the benefit of each of the Parties and their respective successors and assigns and any parents, subsidiaries or affiliated corporations or entities, as applicable.

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have caused this Agreement to be executed under their respective seals as of the date first written above.

ADOPTED AND APPROVED this the ____ day of _____, 2016.

**SOUTHERN LIGHT, LLC,
a limited liability company**

By: _____
Name: **Andrew M. Newton**
Title: **Chief Executive Officer**

State of Alabama)
County of Lee)

Sworn to and subscribed before me this _____ day of _____, 2016.

NOTARY PUBLIC

My Commission Expires: _____

**CITY OF OPELIKA,
a municipal corporation**

By: _____
Name: Gary Fuller
Title: Mayor

ATTEST:

**ROBERT G. SHUMAN,
CITY CLERK**

State of Alabama)
County of Lee)

Sworn to and subscribed before me this _____ day of _____, 2016.

SEAL

NOTARY PUBLIC

My Commission Expires: _____

EXHIBIT A

Section 1. Construction.

(a) *Construction standards.*

(1) Construction of Southern Light's network shall be in accordance with applicable law, industry standards, the requirements of other lawful authority, as such may be amended or superseded from time to time, including applicable sections of the Occupational Safety and Health Act of 1970, as amended.

(2) All of Southern Light's network shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained, and functioning in accordance with good engineering practices and so as to avoid unreasonable interference with or causing damage to public infrastructure or improvements or the facilities of others in the rights-of-way and in a manner that will not unreasonably interfere with the usual and customary uses in the rights-of-way, including pedestrian and vehicular traffic, utilities, and traffic control systems. All such work must be performed by qualified maintenance and construction personnel.

(3) All installation of electronic service equipment shall be done in accordance with the applicable provisions of the National Electrical Safety Code of the National Bureau of Standards and National Electrical Code of the National Board of Fire Underwriters.

(4) Southern Light shall at all times employ ordinary care and shall install, maintain, and use commonly accepted methods and devices for preventing accidents which are likely to cause damage or injury to the public, and, where applicable, shall comply with the Manual on Uniform Traffic Control Devices, as adopted by the City.

(b) *Least disruptive technology.* Southern Light is encouraged to perform construction and maintenance of its network in a manner resulting in the least amount of damage and disruption of the rights-of-way including facilities therein and improvements thereto. Southern Light may be required to use trenchless technology for projects, within roadway limits, which encompasses the roadway and its shoulder, in arterial and other high volume streets and in roadways constructed or resurfaced within the last five (5) years. The City Engineer may require trenchless technology in other locations, where extreme circumstances prevent or make open cut methods impractical. Southern Light may use either the open cut method or trenchless technology for projects outside roadway limits, except as otherwise provided for in this subsection (b).

(c) *Above-ground facilities installation and placement; undergrounding.*

(1) The City desires to promote the undergrounding of facilities in the rights-of-way, their judicious siting, and the use of the least obtrusive facilities in order to reduce or eliminate their impact or potential impact to the public health, safety, or general welfare or otherwise for rights-of-way management purposes. To this end each of the following shall apply relative to Southern Light's network:

a. Southern Light shall install its network facilities underground without cost to

the City: (i) in accordance with the subdivision regulations of the City, (ii) where a majority of the facilities of the City and/or Opelika Power Service or other utilities or service providers in a given area are underground, or (iii) where the City adopts an underground plan and primarily all utility facilities or other facilities are placed underground. Except in the case of an emergency, Southern Light is not authorized to place above ground any of its network that has previously been underground without prior approval from the City and subject to the applicable provisions of this Agreement or applicable law. Nothing herein shall be construed to prevent the above-grounding of those types of network facilities which, due to technical limitations must be placed above ground.

b. In the construction or upgrading of its network, Southern Light shall use the smallest, reasonably available equipment then in use by Southern Light or any of its affiliates.

c. Southern Light shall select locations for its above-ground facilities, both outside and in the rights-of-way, which comply with the City's visibility obstruction regulations; which are not within the paved or traveled portions of the rights-of-way, including the sidewalks, or which do not otherwise block or impede vehicle or pedestrian traffic; which do not block or impede existing public drainage facilities or channels or are otherwise in a designated floodway; or which otherwise raise a reasonable public health, safety, or welfare concern.

d. Southern Light shall, subject to City approval which shall not be unreasonably withheld, select locations and methods of installation and screening for its above-ground network facilities which eliminate or reduce the impact to residential uses including those immediately adjacent to or on the same lot as the proposed facilities.

(2) Where there is a conflict between the rights-of-way construction and administration ordinance referred to in section 8 herein below and the foregoing provisions of subsection (c)(1), such conflict shall constitute a basis for waiving the requirements of the rights-of-way ordinance to the point of the conflict, except where granting the waiver is likely to raise a reasonable public health, safety, or welfare concern.

(d) *Private rights.* Nothing in this Agreement shall be construed to affect any private property rights or the rights of third-parties. Southern Light shall be responsible for compliance with applicable law relative to private property or the rights of third-parties.

(e) *Construction approval.*

(1) At its own expense and cost and concurrent with submission of permit requests for construction of its network or prior to the commencement of construction, including reconstruction, of its network, Southern Light will submit to the City Engineer for her approval construction schedule, plans, and drawings suitable in form and content to the City Engineer. The submittal shall include a schedule and location of work, plans and drawings for construction and restoration acceptable to the City Engineer. The City Engineer's prior approval shall not be required for accessing existing network facilities in such a manner so as to: (i) not interfere with the use of, or other facilities in, the rights-of-way, (ii) not have the likelihood of creating a threat to the public health or safety, or (iii) require restoration or repair of the rights-of-way. Provided the foregoing conditions are met, such accessing includes

accessing existing subsurface facilities through existing manholes or handholes; routine repair and maintenance of existing facilities; running aerial or underground service lines or drops outside the roadway limits, which encompasses the roadway and its shoulder, to individual customers; running overhead lines on existing poles; replacement of existing facilities that does not appreciably alter their location, or enlarge or expand their occupancy of the rights-of-way; or installing lines of wire, cable, or fiber through existing conduits.

(2) Upon completion of construction, including reconstruction, of all or any portion of its network, Southern Light, at its own cost and expense, will update the information provided to the City. Southern Light shall have an ongoing duty to provide to the City current up-to-date "digital as-builts" of its network in a form acceptable to the City.

(3) Submittals shall be prepared in a Microstation V7, 2D, .dgn or compatible format, or ESRI compatible format, with working master units in feet, and 1,000 positional units, geo-referenced to the Alabama State Plane Coordinate System, NAD 1983, Alabama East Zone as described in the Code of Alabama (1975), section 35-2-1 and NGVD 1988 and showing a tie to the Public Land Survey.

(f) *Repair of property.*

(1) In its performance of any construction activity relative to its network, Southern Light shall use its reasonable efforts to protect the rights-of-way and all public and private property located therein from damage or destruction.

(2) Southern Light shall promptly repair and restore public property, including the rights-of-way, and private property in the rights-of-way, to the extent damage to private property interferes with the rights-of-way, which may be damaged or destroyed as a result of the construction of Southern Light's network. Subject to subsection (3) below, any such public property, including the rights-of-way, damaged or destroyed shall be promptly repaired and restored by Southern Light, at Southern Light's sole cost and expense and to the reasonable satisfaction of the City Engineer, to its condition as it existed immediately prior to being damaged or shall be replaced by Southern Light with equivalent property. Southern Light shall not be afforded a cure period under this provision.

(3) Notwithstanding anything to the contrary in this Agreement, Southern Light agrees that with regard to Southern Light's restoration or repair obligations of public property, including the rights-of-way, the City Engineer shall have the right, but not the obligation, to require restoration or repair of public property, including the rights-of-way and public infrastructure, improvements, or facilities, to be in accordance with construction standards for public infrastructure and improvements adopted by the City or standards required by the City Engineer, which may include, but not necessarily be limited to, restoration to the roadway, including sidewalks and curbing, that minimizes deterioration.

(4) Southern Light shall be responsible for coordinating with affected private property owners when crossing driveways and other private infrastructure. Notification to property owners will be the responsibility of Southern Light. Southern Light will be responsible for notifying the City of any road closures for press releases to be issued in a timely manner.

(5) Southern Light will be responsible for locations of all existing utilities prior to beginning work on a site in accordance with applicable local, state, and federal laws.

(g) *Relocation or removal of network.*

(1) For purposes of this subsection (g) the term *public purpose* is defined as activity conducted by or on behalf of the City which relates to the City's exercise of its police powers for the public health, safety, or general welfare, including public works or improvements undertaken for the public safety or convenience, or which otherwise relates to a governmental function of the City.

(2) Subject to subsection (g)(3) below, Southern Light shall be required, either temporarily or permanently, and at its cost, expense and risk, to promptly protect, support, disconnect, relocate in, or remove from the rights-of-way, all or any portion of its network whenever required by the City, upon reasonable notice applicable to the conditions warranting such action and as then reasonably determined by the City Engineer, to accommodate traffic conditions, an emergency situation, public safety, the function of public works of the City, changes in the grade or location of streets, street widening, closure or straightening, any public improvement project, or other public purpose, as that term is defined hereinabove in subsection (g)(1). The City will use its reasonable efforts to coordinate such activity with Southern Light upon the request of Southern Light, including discussions of the least disruptive process.

(3) Nothing in subsection (g)(2) above shall be construed to prevent Southern Light from receiving cost reimbursement or funds under federal or state grants or programs so long such reimbursement or funds are not at City expense, except as may be required otherwise by applicable law. If applicable law requires that the City request such funds on behalf of Southern Light, the City shall do so, upon written request of Southern Light and Southern Light's agreement to reimburse the City for any reasonable costs associated with such request. The availability of such public funds shall not provide Southern Light an excuse for a delay in performing the required action.

(4) Subject to the cost provisions of this subsection (g), in the event the City relocates the rights-of-way where a portion of Southern Light's network is located, the City will use its reasonable efforts to provide Southern Light with a reasonable alternative location for the affected portion in the relocated rights-of-way.

(5) Nothing in this Agreement shall be construed to hinder the right or authority of the City to perform or carry on any public works project or public building project.

(6) Nothing herein shall be construed to prevent Southern Light from continuing to occupy with its network vacated rights-of-way as may be allowed under applicable state law.

(7) Notice of the required action shall be given by the City Engineer to Southern Light and shall contain the basis for the required action, the required commencement and completion dates, and the required action. The time allowed for performance shall be as reasonably determined by the City Engineer and shall take into account, among other things, the nature and scope of the request, any relevant information or limitations provided by Southern Light, whether any emergency exists, and the requirements of the public purpose necessitating the required action. Southern Light may request reasonable extensions of its performance period based on then-current relevant factors.

(8) The City retains the right and privilege to move any of Southern Light's facilities located in

the rights-of-way or other areas of the City as the City may determine to be necessary, appropriate, or useful in response to any life-threatening emergency. The City will use its reasonable efforts to notify and consult with Southern Light's technical point of contact if there is a potential that its facilities will be impacted and if there is an opportunity to do so. Nothing herein shall be construed to create any duties or obligations on the City to so notify Southern Light nor shall the City, its officials, agents, employees, or volunteers be in any way be liable to Southern Light for any failure to notify Southern Light.

(9) In the event that after notice Southern Light fails to perform the required action within the specified time, absent any extensions granted by the City pursuant to this Agreement, Southern Light shall have thirty (30) days to cure the noncompliance, except in the case of an emergency. Thereafter, if Southern Light fails to so perform, the City may, at the sole cost, expense, and risk of Southern Light, perform or have performed the required action, without assuming or having any liability to Southern Light, and invoice Southern Light therefor. In addition to or in the alternative, the City may invoice Southern Light, for any costs or expenses, including construction delays, suffered by the City that are attributable to said failure, which invoiced amount shall be paid by Southern Light within thirty (30) days from notice of same, or, in the alternative, assess liquidated damages of one thousand dollars (\$1000.00) per diem. Notwithstanding anything in this Agreement to the contrary, Southern Light shall not be afforded a cure period in the case of an emergency condition that, in the City's opinion, poses a likelihood of: (a) endangering life or health, (b) causing a significant loss of property or services, or (c) causing significant damage to or destruction of the rights-of-way.

(h) *Conditions of use.*

(1) Southern Light shall, at its own cost and expense, maintain its network in good working order, condition, and repair and free from graffiti. Southern Light shall use its best efforts to keep the rights-of-way free of debris and anything of a dangerous, noxious, or offensive nature or which would create a hazard or undue interference to the use of the rights-of-way. Facilities, both outside of and in the rights-of-way, shall not be installed across or within public sewer or stormwater drainage facilities including ditches, pipes, or channels, or otherwise in such a manner so as to obstruct the flow of sewage or stormwater run-off. Southern Light shall control its agents, contractors, and employees in such a manner so as to not create any nuisance and to otherwise comply with the requirements of this subsection (h).

(2) The City shall have no obligation to insure or safeguard Southern Light's network against unauthorized access.

Section 2. Temporary movement of network.

Upon the request of the City Engineer Southern Light shall temporarily move its network facilities to permit the moving of large objects, vehicles, buildings, or other structures. Except where requested by the City for a City purpose, including a public purpose as that term is defined in subsection (g)(l) above, the expense of such temporary moves shall be paid to Southern Light by the person requesting the same, and Southern Light shall have the authority to require such payment in advance. In no event shall the City pay such expense. Nothing herein shall be construed to abrogate the provisions for moving facilities contained in any pole attachment agreement Southern Light has with another person, including the City and/or Opelika Power Services.

Section 3. Trees.

Southern Light shall comply with all applicable laws with respect to the removal, trimming and cutting of trees and keeping its network facilities clear of trees in the rights-of-way, including the tree regulations, as such laws may be amended or superseded. Within fourteen (14) days notice from the City Engineer or immediately in the case of an emergency, Southern Light agrees that it will cooperate in the removal of any tree or branch which has fallen onto its aerial facilities. Except in emergency situations and except for routine trimming and then subject to the tree regulations, in installing, maintaining, and removing its network facilities, Southern Light shall not remove, cut, or damage any trees in the rights-of-way that are greater than four (4) inches in diameter, as measured at twelve (12) inches above the ground, except with the prior consent of the City forester or his designee.

Section 4. Joint Trench Coordination; Planned Infrastructure.

(a) *Joint trenching.* Whenever it is possible and reasonably practicable to joint trench or share bores or cuts or joint share conduit, Southern Light shall work with the City and other rights-of-way users, so as to reduce, as far as possible, the number of street cuts within the City.

(b) *Planned infrastructure.* If required of other users of the rights-of-way, when Southern Light installs any new trench or conduit as part of its network facilities, Southern Light shall, at the request of the City or its designee install, at the expense of the City, sufficient additional space or additional conduits or other related facilities. The cost to the City shall be the costs of material and labor attributable or proportional to said installation. The City shall have the option to lay its own conduit or place other public improvements, such as wiring for traffic signals and street lights, that do not cause significant cost, delay or redesign, in Southern Light's open trenches during the initial construction and during any future rebuilds or repairs. Southern Light shall provide written notice of the proposed construction to the City Engineer, and the City will then have five (5) business days after receipt to respond in writing to Southern Light. Nothing in this subsection (b) shall be construed to require Southern Light to share space within conduits occupied by its facilities or the facilities of others.

Section 5. Advertising, signs, or extraneous markings.

Unless otherwise authorized by applicable law, Southern Light shall not place or cause to be placed any sort of signs, advertisements, or other extraneous markings, whether relating to Southern Light or any other person or entity in the rights-of-way including facilities therein, except such necessary minimal markings as approved by the City as are reasonably necessary to identify the system for service, repair, maintenance, or emergency purposes, or as may be otherwise required or permitted by the City or state to be affixed by applicable law or regulation for such purposes.

Section 6. Abandonment of construction or network; removal.

Upon abandonment, or where this Agreement expires, terminates, or is revoked, the City may, at its sole discretion, require Southern Light, upon the City's written request and within a reasonable time as determined by the City Engineer, to remove from the City's rights-of-way, at Southern Light's own cost and expense, all or any portion of its network; provided, however, this provision shall not apply to buried facilities which the City Engineer determines should not be removed. In removing the network, Southern Light shall, at its own cost and expense, refill and compact any or all excavation that shall be made by it and restore the right-of-way and other property to the reasonable satisfaction of the City to its condition as it existed immediately prior to the facilities being removed or as otherwise provided for in section 1(f)(3) above. If Southern Light fails to comply with the said removal order pursuant to this section, the City may, or may contract to, do so at Southern Light's cost, expense, and risk, without assuming or

having any liability to Southern Light, and invoice Southern Light therefor; which invoiced amount shall be paid by Southern Light within thirty (30) days from notice of same. Where Southern Light abandons a portion of its network during the term of this Agreement, including any hold-over period, such abandoned portions shall be subject to removal in accordance with this section.

Section 7. Technical point of contact; authority of City Engineer; stop work order; City costs.

- (a) *Point of contact.* Southern Light shall designate a responsible technical contact person or persons including a telephone number available seven (7) days a week, twenty-four (24) hours a day, with whom representatives of the City can communicate with on all matters relating to rights-of-way management and in the case of an emergency.
- (b) *Authority of City Engineer.* The City Engineer is hereby authorized to enforce and administer the construction and rights-of-way provisions of this Agreement and may act through subordinates or delegates.
- (c) *Stop work order.* The City Engineer may, at any time and from time to time, issue a stop work order for construction of all or any portion of the network when the City Engineer determines, in her sole discretion, that the activity has caused, or is likely to cause, a situation to exist that poses a clear and immediate danger: (a) to life or health, (b) of a significant loss of property or services, or (c) of significant damage to or destruction of the rights-of-way. The order may be issued, at the City Engineer's option, on the construction site or to Southern Light's technical contact person.
- (d) The City reserves the right to, at any time and from time to time, charge Southern Light for the City's reasonable costs related to the administration and oversight of Southern Light's construction-related activity in the rights-of-way, including plans review and inspection costs. Southern Light shall pay the charge within 30 days of invoicing unless it contests the costs to the City Engineer within 20 days of invoicing. The City Engineer shall have the right to adjust the contested charges as appropriate and re-invoice. Southern Light may, at its option, deduct the invoiced charges that it has paid to the City under this subsection (d) from its use fee payment due for the next immediate quarter, provided that it itemize the deduction in its use fee payment statement.