OPELIKA CITY COUNCIL
" REGULAR MEETING AGENDA "
204 South 7th Street
October 4, 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
    1. Emily Wright and Carley Nelson from First Baptist Church / Girls in Action.

4. PLEDGE OF ALLEGIANCE
    1. Bailey Ward and Nykarsha Milford from Morris Avenue Intermediate School.

5. READING OF MINUTES
    1. Minutes from the 9-20-16 City Council Meeting.

6. UNFINISHED BUSINESS

7. REMARKS BY THE MAYOR
    1. Re-appoint Henritta Snipes to the Opelika Housing Authority.
    2. Proclamation for Pro Bono Month.
    3. Proclamation for Henrietta Snipes - Chairman of the Opelika Housing Authority.

8. CITIZEN COMMUNICATIONS (Limit comments to five minutes or less)

9. REPORT OF DISBURSEMENTS

10. COMMITTEE REPORTS

11. GENERAL BUSINESS

12. AWARDING OF BIDS
    1. Gasoline & Ultra Low Sulfur #2 Diesel Fuel-PW/AS

13. RESOLUTIONS
    1. Expense Reports from Various Departments.
    2. Designate City Personal Property Surplus & Authorize Disposal
    3. Purchase One (1) 2016 Ford F150 Super Cab 4X4 Pickup - ENG.
    4. Purchase One (1) 2017 Ford Explorer 4X2 - OES.
    5. Annual Appropriation Contract with EAMC, Emergency Transport.
    6. Amendment No. 5 to Agreement with ESG Operations, Inc.
    7. New Position for an Engineering Department Co-Op

8. Agreement with PFM Financial Advisors, LLC.
9. Special Appropriation to Main Street - 2016 Christmas in a Railroad Town.
10. Authorize Starting Salary - Community Relations Officer.

14. ORDINANCES
    1. Rights-Of-Way Use Agreement with Southern Light, LLC - 2Nd Reading.
    2. Sale City Property Located at 10962 Lee Road 0279 - First Reading.
    3. Purchase Property at 608 Avenue A- First Reading.

15. APPOINTMENTS

16. ADJOURN

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 10/04/16 07:00 PM
Department: City Clerk
Category: CM Minutes
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

CM MINUTES (ID # 1914)

DOC ID: 1914

Minutes from the 9-20-16 City Council Meeting.

OPELIKA CITY COUNCIL
" REGULAR MEETING MINUTES "
204 South 7th Street
September 20, 2016
TIME: 7:00 PM

1. Call to Order

President Smith called the council meeting to order at 7:00 pm asking Mr. Shuman to call the roll.

2. Roll Call

All council members were present except for Mr. Canon.

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

3. Invocation

Mr. Smith T provided the invocation.

4. Pledge of Allegiance

Luke Moates and Alicia Frazier lead the 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.

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

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

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

6. Unfinished Business

7. Remarks By the Mayor

1. Building Inspection Reports - August, 2016

Mayor Fuller called on Joey Motley, City Administrator, to present a summary of the August 2016 Building Inspection report.

2. Presentation of a proclamation for Character Day.

Mayor Fuller presented a proclamation to Tom Tippett, Barbara Patton and other representatives declaring September 22nd as Character Day.

3. Presentation of an exemplary act award - John Harris

Mayor Fuller presented a performance award to John Harris of the City's engineering department.

8. Citizen Communications

(Limit comments to five minutes or less)

Curtis Hale the owner of a local cab company asked the Mayor and City Council to consider amending the city's ordinance to allow his three cabs to be driven home at night. President Smith advised Mr. Hale that the Mayor and his staff would look at said ordinance and bring a recommendation to the city council for their consideration.

9. Report of Disbursements

10. Committee Reports

11. General Business

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

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

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

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

3. Additional Request for the on the Tracks Event.

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

4. Public Hearing Weed Abatement Assessment - Avenue B

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

5. Public Hearing Weed Abatement Assessment - 206 Avenue B

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

6. Public Hearing Weed Abatement Assessment - 1700 1St Avenue

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

7. Public Hearing Weed Abatement Assessment - 1823 1St Avenue

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

12. Awarding of Bids

1. Bids 231-16 N 22ND St Alignment/1ST Ave Widening & Resurfacing-ENG

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

2. Bids 232-16 15Kv Primary Underground Distribution Cable-OPS

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

3. Bids 233-16 Single-Phase Pole Mounted Transformers-OPS

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

4. Bids 234-16 Single-Phase Pad Mounted Transformers-OPS

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

5. Bids 235-16 Three-Phase Pad Mounted Transformers-OPS

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

6. Bids 236-16 Three-Phase Pad Mounted Transformers-1500 KVA Mineral Oil-OPS

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

13. Resolutions

1. Resolution 237-16 Expense Reports from Various Departments.

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

2. Resolution 238-16 Designate City Personal Property Surplus & Authorize Disposal

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

3. Resolution 239-16 Purchase-(624) Toter 96-Gal EVR II Carts-OES

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

4. Resolution 240-16 Weed Abatement Assessment - Avenue B

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

5. Resolution 241-16 Weed Abatement Assessment - 206 Avenue B

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

6. Resolution 242-16 Weed Abatement Assessment - 1700 1St Avenue

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

7. Resolution 243-16 Weed Abatement Assessment - 1823 1St Avenue

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

8. Resolution 244-16 Anesthesia Assoc. of E. Ala. Refund for Overpayment of Occupational License Fee

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

9. Resolution 245-16 Request for a Special Use Permit from T-Mobile.

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

10. Resolution 246-16 Contract with Lee Co. Humane Society, Animal Shelter Services - OES.

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

11. Resolution 247-16 Contract Renewal with Library Board.

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

12. Resolution 248-16 Transfer Current Year City Council Discretionary Fund Balances.

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

14. Ordinances

1. Ordinance 122-16-ORD Lease Agreement, East Central Alabama Highway Safety Office - 2Nd Reading.

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

2. Ordinance 123-16-ORD Amend Sec. 5-17.1 of Code of Ordinances / Building Permits - First Reading.

Mr. Gray introduced this ordinance. Mr. Jones then made the motion to suspend the rules and was seconded by Mr. Smith T. The following vote was recorded:

Ayes Jones, Gray, Smith T, Smith.
Nays None.
Absent Canon.

RESULT:	**FIRST READING AND APPROVED [UNANIMOUS]**
MOVER:	Larry Gray, Council Member
SECONDER:	Dozier Smith T, Council Member
AYES:	Patricia Jones, Larry Gray, Dozier Smith T, Eddie Smith
ABSENT:	David Canon

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

Ms. Jones introduced this ordinance for a first reading.

RESULT: **FIRST READING INTRODUCED**

15. Appointments
    1. Re-appoint Wallace Paschal to the Celebrate Alabama Cooperative District. His new term expires 8-27-2020.

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

    2. Reappoint Auzzie Comer to the Board of Adj. & Appeals. His new term expires 10-01-2020.

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

    3. Reappoint Wayne Gibson to the Board of Adj. & Appeals. His new term expires 10-01-2020.

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

    4. Reappoint Dick Moreman to the Lee Co. Youth Development Board. His new term expires 10-01-2020.

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

16. Adjourn

These City Council meeting minutes of 9-20-16 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.

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

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 249-16

Meeting: 10/04/16 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 1920

Gasoline & Ultra Low Sulfur #2 Diesel Fuel-PW/AS

RESOLUTION NO. _____________

WHEREAS, the Purchasing Department solicited sealed bids for a Contract for Gasoline & Ultra Low Sulfur #2 Diesel Fuel for the Public Works/Automotive Shop; and

WHEREAS, Mansfield Oil Co. submitted the lowest bid meeting specifications; and

WHEREAS, this is a budgeted purchase;

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

1. That the bid be awarded to Mansfield Oil Co. on their low bid meeting specifications.

2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Mansfield Oil Co. on an as needed basis.

3. That the Mayor be authorized to sign all documents pertaining to this Contract.

4. The Controller is authorized to adjust the budget as necessary for 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:

____

Robert G. Shuman, CMC
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bid #16037 – We are asking the Council to approve a contract for Gasoline & Ultra Low Sulfur #2 Diesel Fuel

FACTS:

- Bid opening date – 9/7/16
- User Departments – Public Works/Automotive Shop
- The bid was mailed to 10 vendors
- 11 bids were received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to Mansfield Oil Co. on their low bid meeting specifications.**

BID# 16037 DATE: 9/7/16 DEPT: PUBLIC WORKS/AUTOMOTIVE SHOP				10 VENDORS INVITED
DESCRIPTION: GASOLINE & ULTRA LOW SULFUR #2 DIESEL FUEL				11 BIDS RECEIVED
	ITEM #1: 87 OCTANE WITH UP TO 10% ETHANOL UNLEADED GASOLINE FIXED RATE OF OVERHEAD/PROFIT (PER GALLON)			
	ITEM #2: ULTRA LOW SULFUR #2 DIESEL FUEL FIXED RATE OF OVERHEAD/ PROFIT (PER GALLON)			
VENDOR NAME	**ITEM #1**	**ITEM #2**	**TOTAL**	**TERMS**
AVO TRAINING INSTITUTE INC				
COUGAR OIL INC				
K & B OIL SUPPLY INC (*DID NOT MEET SPECS)	$0.0160	$0.0160	$0.0320	
MANSFIELD OIL CO	**$0.0289**	**$0.0342**	**$0.0631**	
MANSFIELD OIL CO - ALT	-$0.0080	$0.0167	$0.0087	
MCPHERSON OIL PRODUCTS INC				
PETROLEUM PURCHASING INC	$0.0425	$0.0475	$0.0900	
PETROLEUM TRADERS CORPORATION	$0.0323	$0.0368	$0.0691	
RIC MAR INDUSTRIES INC				
RUSSELL PETROLEUM CORP	$0.0750	$0.0750	$0.1500	
TRUMAN ARNOLD COMPANIES				
RKA Petroleum Companies	$0.0211	$0.0493	$0.0704	
Indigo Energy Partners, LLC	$0.0346	$0.0378	$0.0724	
Slidell Oil Company	$0.0570	$0.0630	$0.1200	
James River Solutions (*DID NOT MEET SPECS)	$0.0381	$0.0390	$0.0771	
Lykins Oil Co.	$0.0336	$0.0323	$0.0659	
W H Oil (*DID NOT MEET SPECS)	$0.0550	$0.0550	$0.1100	

RESOLUTION NO. 250-16

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
Cynthia Boyd	Accounting	121.58
Marty Ogren	Planning	573.00
Derek Lee	OPS	115.00
David Johnson	OPS	312.45
Jeff Tickal	Municipal Court	963.22
Guy Gunter	City Attorney	803.79
Tyler Chaffee	Economic Development	410.40
Ashley Smith	Economic Development	265.68
Kathy Daugherty	Economic Development	265.68

) 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

13.1.a

EXPENSE REPORT

PERIOD ENDING Sept 2016

NAME Cynthia G Boyd

DEPARTMENT Accounting

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

	DAY	CITY AND STATE	LODGING	TRANSPORTATION: AIR, RAIL, ETC.	TRANSPORTATION: RENTAL CAR, LIMO, ETC.	TRANSPORTATION: LOCAL TAXI, TOLLS & PUBLIC TRANSIT	TRANSPORTATION: AUTO EXPENSES Itemize Below	BUSINESS MEALS Itemize Below: BREAKFAST	BUSINESS MEALS: LUNCH	BUSINESS MEALS: DINNER	ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
7	SUN	West Palm Beach Florida					50 87						50 87
8	MON							12 84					12 84
9	TUE					7 00							7 00
10	WED						50 87						50 87
	THU												
	FRI												
	SAT												
	WEEKLY CATEGORY TOTALS $												121 58

WEEKLY TOTAL OF EXPENSES ↑

ITEMIZED ENTERTAINMENT AND BUSINESS MEALS

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

RECEIVED
SEP 27 2016

Agree To P.O. ____
Ext's Verified ____
Footing Verified ____
Inv. Price Bio Price ____
Ok To Pay ____
A/C # Verified ____

NUMBER OF DAYS AWAY FROM HOME 4

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS 0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS 0

NATURE OR PURPOSE OF TRAVEL Governmental Acctg Seminar

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM MY ADVANCE OR ☑ MAIL TO:

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING, REPAIRS, ETC.	AMOUNT
8/7/16	Mileage to ATL	50.87
8/10/16	Mileage from ATL 94.2 x .54	50 87
8/9/16	Parking-Restaurant	7 00

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

SIGNATURE Cynthia G Boyd

APPROVED BY

REDIFORM.

WHITE – ORIGINAL CANARY – DUPLICATE

44B-950N • Carbonless Sp...
©1999 Rediform

EXPENSE REPORT

NAME Marty Ogren

DEPARTMENT Planning

PERIOD ENDING 9/16/2016

DAY	CITY AND STATE	LODGING	TRANSPORTATION: AIR RAIL, ETC	RENTAL CAR LIMO ETC	LOCAL TAXI, TOLLS & PUBLIC TRANSIT	AUTO EXPENSES Itemize Below	BUSINESS MEALS Itemize Below: BREAKFAST	LUNCH	DINNER	ENTERTAINMENT Itemize Below	MISC EXPENSES Itemize Below	DAILY TOTAL
SUN												0.00
MON												0.00
TUE												0.00
WED 9/14	Biloxi, Ms.	143.98						17.55	19.12		225.00	405.65
THU 9/15	Biloxi, Ms.	143.98							6.69			150.67
FRI 9/16	Biloxi, Ms.						10.42	6.26				16.68
SAT												0.00
WEEKLY CATEGORY TOTALS $		287.96	0.00	0.00	0.00	0.00	10.42	23.81	25.81	0.00	225.00	573.00

WEEKLY TOTAL EXPENSES

RECEIVED SEP 21 2016

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: three

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS: 0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS: 0%

NATURE OR PURPOSE OF TRAVEL: Attend the 2016 Ms-Al Annual Conference - Alabama Chapter American Planning Association

METHOD OF REIMBURSEMENT: ☐ DEDUCT FROM MY ADVANCE ☑ MAIL TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT
09/14 to	Registration Fee for	
9/16	2016 Ms-Al Annual	
	Planning Conference (ALAPA)	225.00

Emplyee: Marty Ogren

Department: Planning

Marty Ogren

SIGNATURE

APPROVED

EXPENSE REPORT

NAME Derek S. Lee

DEPARTMENT OPS

PERIOD ENDING

DAY	CITY AND STATE	LODGING	TRANSPORTATION: AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUBLIC TRANSIT	AUTO EXPENSES Itemize Below	BUSINESS MEALS Itemize Below: BREAKFAST	LUNCH	DINNER	ENTERTAINMENT Itemize Below	MISC EXPENSES Itemize Below	DAILY TOTAL
SUN	St. Louis Missouri				60.00							60.00
MON												0.00
TUE												0.00
WED	St Louis Missouri				55.00							55.00
THU												0.00
FRI												0.00
SAT												0.00
WEEKLY CATEGORY TOTALS $		0.00	0.00	0.00	115.00	0.00	0.00	0.00	0.00	0.00	0.00	115.00

WEEKLY TOTAL EXPENSES

RECEIVED
SEP 21 2016

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

Agree To P.O.
Exts Verified
Posting Verified
Inv. Price Bid Price
Ok To Pay
A/C # Verified

NUMBER OF DAYS AWAY FROM HOME
3 Days

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS
0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS
0%

NATURE OR PURPOSE OF TRAVEL
NISC Member Information Conference

METHOD OF REIMBURSEMENT
☐ DEDUCT FROM MY ADVANCE
☑ MAIL TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

SIGNATURE Derek S. Lee

APPROVED BY

EXPENSE REPORT

NAME David Mark Johnson

DEPARTMENT OPS

PERIOD ENDING

DAY	CITY AND STATE	LODGING	TRANSPORTATION AIR RAIL, ETC	RENTAL CAR LIMO ETC	LOCAL TAXI, TOLLS & PUBLIC TRANSIT	AUTO EXPENSES Itemize Below	BUSINESS MEALS Itemize Below BREAKFAST	LUNCH	DINNER	ENTERTAIN-MENT Itemize Below	MISC EXPENSES Itemize Below	DAILY TOTAL
SUN	Pensacola Florida					121.50		42.35				163.85
MON	Pensacola Florida							27.10				27.10
TUE						121.50						121.50
WED												0.00
THU												0.00
FRI												0.00
SAT												0.00
WEEKLY CATEGORY TOTALS $		0.00	0.00	0.00	0.00	243.00	0.00	69.45	0.00	0.00	0.00	312.45

WEEKLY TOTAL EXPENSES

RECEIVED
SEP 21 2016

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 Bid Price
Ok To Pay
A/C # Verified

NUMBER OF DAYS AWAY FROM HOME: 2 Days

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS: 0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS: 0%

NATURE OR PURPOSE OF TRAVEL: WindMil Basic Training to better understand the Milsoft Circuit Model

METHOD OF REIMBURSEMENT
☐ DEDUCT FROM MY ADVANCE
☑ MAIL TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC	AMOUNT
	mileage to P'cola	121.50
	mileage to Opelika	121.50

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

SIGNATURE

APPROVED BY

EXPENSE REPO

NAME
Jeff Tickal

DEPARTMENT
Department Legal

PERIOD ENDING

DAY	CITY AND STATE	LODGING	TRANSPORTATION AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUBLIC TRANSIT	AUTO EXPENSES Itemize Below	BUSINESS MEALS Itemize Below BREAKFAST	LUNCH	DINNER	ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
SUN	Orange Beach, AL					~~129.95~~ 122.00	11.95					133.95 ~~141.90~~
MON												0.00
TUE												0.00
WED												0.00
THU	Orange Beach, AL	122.09				~~129.99~~ 122.00					300.00	544.09
FRI	Orange Beach, AL	122.09						15.00				137.09
SAT	Orange Beach, AL	122.09					10.80	15.20				148.09
WEEKLY CATEGORY TOTALS $		366.27	0.00	0.00	0.00	244.00 ~~259.94~~	22.75	30.20	0.00	0.00	300.00	963.22

WEEKLY TOTAL EXPENSES

RECEIVED
SEP 2 0 2016

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

NUMBER OF DAYS AWAY FROM HOME
4

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

NATURE OR PURPOSE OF TRAVEL
Seminar

METHOD OF REIMBURSEMENT
☐ DEDUCT FROM MY ADVANCE
☑ MAIL TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT
9/15	Mileage 226@ $0.57.5	122.00 ~~129.95~~
9/18	Mileage 226@ $0.57.5	122.00 129.95

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT
9/8	Registration	300.00

Jeff Tickal
Prosecutor
Opelika, AL 36801

SIGNATURE 9-19-16

APPROVED BY

EXPENSE REPORT

NAME Name Guy F. Gunter, III

DEPARTMENT Department Legal

PERIOD ENDING 9/18/2016

DAY	CITY AND STATE	LODGING	TRANSPORTATION: AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUBLIC TRANSIT	AUTO EXPENSES Itemize Below	BUSINESS MEALS Itemize Below: BREAKFAST	LUNCH	DINNER	ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
SUN 9/18	Fall Municipal Law Conference Orange Beach, AL					~~147.20~~ 143.604		16.68				~~163.88~~ 160.32
MON												0.00
TUE												0.00
WED												0.00
THU 9/15	Fall Municipal Law Conference Orange Beach, AL	132.09				~~147.20~~ 143.604		39.00				~~318.29~~ 314.73
FRI 9/16	Fall Municipal Law Conference Orange Beach, AL	132.09						25.24	8.52			165.85
SAT 9/17	Fall Municipal Law Conference Orange Beach, AL	132.09						30.80				162.89
WEEKLY CATEGORY TOTALS $		396.27	0.00	0.00	0.00	294.40	0.00	111.72	8.52	0.00	0.00	~~810.91~~ 803.7[illegible]

WEEKLY TOTAL EXPENSES

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

RECEIVED
SEP 20 2016

NUMBER OF DAYS AWAY FROM HOME 3

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS 0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

NATURE OR PURPOSE OF TRAVEL
2016 Fall Municipal Law Conference

METHOD OF REIMBURSEMENT
☐ DEDUCT FROM MY ADVANCE ☑ MAIL: TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT
9/15	From Opelika, AL to Orange Beach	~~147.20~~ 143.604
9/18	From Orange Beach, AL to Opelika	~~147.20~~ 143.604

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

Guy F. Gunter, III
City Attorney
Opelika, AL 36801

SIGNATURE Guy F. Gunter III

APPROVED BY [signature]

Expense Report

Name: Tyler Chaffee

Department: 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: AIR, RAIL, ETC.	RENTAL CAR, LIMO, ETC.	LOCAL TAXI, TOLLS & PUBLIC TRANSIT		AUTO EXPENSES	BUSINESS MEALS Itemize Below: BREAKFAST	LUNCH	DINNER	ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
9/13/2016		Opelika						8.10						8.10
9/14/2016		Opelika						1.62						1.62
9/15/2016		Opelika/Auburn						15.66						15.66
9/16/2016		Opelika						4.32						4.32
9/20/2016		Opelika						9.18						9.18
9/23/2016		Opelika						8.64						8.64
9/25-27/16		Opelika/Orange Beach						278.64						278.64
9/28/2016		Opelika/Bullock Co						76.14						76.14
9/29/2016		Opelika						8.1						8.1
								0						0.00
WEEKLY CATEGORY TOTALS$			0.00	0.00	0	0	0.00	410.40	0.00	0.00	0	0	0	410.40

WEEKLY TOTAL OF EXPENSES

RECEIVED
SEP 29 2016

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%
					100%

Agree To P.O.
Rcds Verified
Footing Verified
Inv. Price Bio Price
Ok To Pay
A/C # Verified

NUMBER OF DAYS AWAY FROM HOME

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS: 0

% OF TOTAL DAYS AWAY FRO PERSONAL AFFAIRS: 0

NATURE OR PURPOSE OF TRAVEL: Personal Auto Travel Expense

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM M' OR

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING, REPAIRS, TEC.	AMOUNT
9/13/2016	15 miles city hall to Walmart DC	8.10
9/14/2016	3 miles city hall to southern union	1.62
9/15/2016	29 miles city hall to Auburn	15.66
9/16/2016	8 miles city hall to sportsplex/ironstrike	4.32
9/20/2016	17 miles city hall to industrial park	9.18
9/23/2016	16 miles city hall to industrial park	8.64
9/25-27/16	516 miles Opelika/Orange Beach	278.64
9/28/2016	141 miles Opelika/Bullock County	76.14
9/29/2016	15 miles city hall to Cumberland Plastics	8.1

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

SIGNATURE

APPROVED BY

EXPENSE REPORT

NAME Name Ashley Smith

DEPARTMENT Department Economic Development

PERIOD ENDING

DAY	CITY AND STATE	LODGING	TRANSPORTATION AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUBLIC TRANSIT	AUTO EXPENSES Itemize Below	BUSINESS MEALS Itemize Below BREAKFAST	LUNCH	DINNER	ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
												0.00
9/25/2016	Opelika to Orange Beach					132.84						132.84
9/27/2016	Orange Beach to Opelika					132.84						132.84
												0.00
												0.00
												0.00
												0.00
WEEKLY CATEGORY TOTALS $		0.00	0.00	0.00	0.00	265.68	0.00	0.00	0.00	0.00	0.00	265.68

WEEKLY TOTAL EXPENSES

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

Agree To P.O.____
Exts Verified____
Footing Verified____
Inv. Price b/o Price____
Ok To Pay____
A/C # Verified____

NUMBER OF DAYS AWAY FROM HOME

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

NATURE OR PURPOSE OF TRAVEL

METHOD OF REIMBURSEMENT
☐ DEDUCT FROM MY ADVANCE ☑ MAIL: TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT
9/25	Opelika to Orange Beach (246 Miles)	132.84
9/27	Orange Beach to Opelika (246 Miles)	132.84

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

Ashley Smith
SIGNATURE

APPROVED BY

Attachment: CM 10-04-16, expense reports (2) (250-16 : Expense Reports from Various Departments.)

Expense Report

Name: Kathy Daugherty

Department: 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: AIR, RAIL, ETC.	RENTAL CAR, LIMO, ETC.	LOCAL TAXI, TOLLS & PUBLIC TRANSIT		AUTO EXPENSES	BUSINESS MEALS (Itemize Below): BREAKFAST	LUNCH	DINNER	ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
9/25/2016	Sun	Opelika, AL						132.84						132.84
9/27/2016	Tues	Orange Beach, AL						132.84						132.84
WEEKLY CATEGORY TOTALS$			0.00	0.00	0	0	0.00	265.68	0.00	0.00	0	0	0	265.68

WEEKLY TOTAL OF EXPENSES

RECEIVED
SEP 27 2016

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%

Agree To P.O.
Exts Verified
Footing Verified
Inv. Price Bid Price
Ok To Pay
A/C # Verified

NUMBER OF DAYS AWAY FROM HOME

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS: 0

% OF TOTAL DAYS AWAY FRO PERSONAL AFFAIRS: 0

NATURE OR PURPOSE OF TRAVEL: EDAA Training

METHOD OF REIMBURSEMENT

DEDUCT FROM M\ OR

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING, REPAIRS, TEC.	AMOUNT
9/25/2016	246 miles from Opelika to Orange Beach	132.84
9/27/2016	246 miles from Orange Beach to Opelika	132.84

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

SIGNATURE Kathy Daugherty

APPROVED BY

Attachment: CM 10-04-16, expense reports (2) (250-16 : Expense Reports from Various Departments.)

RESOLUTION NO. 251-16

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.	2006 Dodge Charger 2B3KA43G06H287710	87002431
2.	1	Ea.	2007 Dodge Magnum 2D4GV47VX7H725381	87001340
3.	1	Ea.	2008 Dodge Magnum 2D4GV47V58H216218	87001344

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, CMC

City Clerk - Treasurer

RESOLUTION NO. 252-16

Purchase One (1) 2016 Ford F150 Super Cab 4X4 Pickup - ENG.

RESOLUTION NO. ____________

WHEREAS, the Engineering Department desires to purchase one (1) 2016 Ford F150 Super Cab 4x4 Pickup with certain options utilizing State of Alabama Contract #T191A; and

WHEREAS, Stivers Ford Lincoln is the State Contract Vendor for the one (1) 2016 Ford F150 Super Cab 4x4 Pickup; and

WHEREAS, funding will come from Capital Outlay;

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

1. That the purchase be awarded to Stivers Ford Lincoln utilizing the State of Alabama Contract.

2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Stivers Ford Lincoln in the total amount of $24,710.00.

3. That the Controller is authorized to adjust the budget as necessary for this purchase.

4. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.

APPROVED AND ADOPTED this the _____day of ___________________, 2016.

C. E. “Eddie” Smith, Jr.

President of the City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer

City of Opelika
Storm Water Div.

FY-17

STIVERS FORD LINCOLN
4000 EASTERN BLVD
MONTGOMERY, AL 36116

2016 FORD F150 SUPERCAB 4x4 PICKUP -- STATE CONTRACT T191A

CONTRACT NUMBER: MA999 16000000008 LINE NUMBER: 17

CONTRACT AMOUNT: ~~$22,709~~ 22707

MODEL SERIES X1E ORDER CODE 100A

INCLUDES: 3.5L V6 282 Horsepower FFV Engine, 6 Spd Auto, 4x4, 145" Wheelbase, 6.5' Box, 4 Wheel Disc Brakes w/ ABS, Tilt Wheel, Air Conditioning, Vinyl Flooring, 265/70R/17AT; AM/FM Radio, Vinyl 40/20/40 Seat, Air Bags-Front & Safety Canopy Side Curtain Airbags

Lite camel tan seats

RECOMMENDED OPTIONS

STATE CONTRACT PRICE (T191A)		$	~~22,709~~ 22707.00
STIVERS PREMIUM VALUE PACKAGE:			
101A	XL Preferred Equipment Package: Includes: AM/FM w/ Single CD; SYNC System; 4.2" Productive Screen; w/ Compass; Power Windows, Locks & Mirrors; Cruise Control; and BoxLink (4 premium locking cleats)	$	2,255
53A	Trailer Tow Package	$	895
76C	Rear View Camera	$	250
LED	4 Corner LED Strobe Lights	$	539
BL6	Bed Liner - Drop In (6-1/2")	$	189
SM4	All Weather Rubber Mats - Heavy Duty	$	149
PACKAGE TOTAL COST:		$	~~26,986~~ 26984.00

STATE CONTRACT PRICE (T191A)		$	~~22,709~~ 22707.00
STIVERS RECOMMENDED PACKAGE:			
100A	XL Base Equipment Package		Included
✓53A	Trailer Tow Package (w/ 100A Package)	$	495
✓85A	Power Windows, Locks & Mirrors	$	1,170
~~LED~~	~~4 Corner LED Strobe Lights~~	~~$~~	~~539~~
✓BL6	Bed Liner - Drop In (6-1/2")	$	189
✓SM4	All Weather Rubber Mats-Heavy Duty	$	149
PACKAGE TOTAL COST:		$	~~25,251~~ ~~24,717~~ 24710

OTHER OPTIONS

WHEELBASE OPTION:				
163	8.0' Box - Super Cab - Includes: 5.0L V8 FFV; 3.31 Axle Ratio & 7000# GVWR	$	1,845	☐
DRIVE TRAIN OPTIONS:				
99M	3.5L V6 282 Horsepower		STD	
	XL6 - 3.73 E-Locking	$	570	☐
99F	5.0L V8 360 Horsepower	$	1,595	☐
	XL6 - 3.73 E-Locker Axle	$	570	☐
EQUIPMENT PACKAGES				
301A	XLT Package	$	4,125	☐
101A	XL Preferred Equipment Package: Includes: Power Equipment Group; AM/FM w/ Single CD; 4.2" Productive Screen; w/ Compass; SYNC System; Cruise Control; and BoxLink (4 premium locking cleats)	$	2,255	☐
86A	Appearance Package: Includes: 17" Silver Painted Aluminum Wheels; Chrome Front & Rear Bumpers and Fog Lights	$	775	☐
	Stivers Special Service Package:			
SSS	Includes: 5.0L V8 Engine; XL Trim Level; Communication Console w/ Arm Rest, Cup Holder, Storage Box & Mic Holder; No Center Seat Section (40 / no seat / 40)			

YZ oxford white

GVWR: 4,900 MINIMUM
ENGINE: 4-CYLINDER
4 WHEEL ABS
A/C AND HEAT
AM/FM RADIO
AUTOMATIC TRANSMISSION
TILT STEERING
BRAND: FORD
MODEL: F150 CREW CAB 4X2

4013389	00015	070-98-082969 VEHICLE, MID-SIZE TRUCK, ALTERNATIVE FUEL, CREW CAB, 4 X 4 GVWR: 4,900 MINIMUM ENGINE: 4-CYLINDER 4 WHEEL ABS A/C AND HEAT AM/FM RADIO AUTOMATIC TRANSMISSION TILT STEERING BRAND: FORD MODEL: F150 CREW CAB 4X4	24936.00000 EACH	203196009-02 STIVERS FORD LINCOLN INC STIVERS FORD LINCON INC	NET
4013389	00016	070-98-082970 VEHICLE, MID-SIZE TRUCK, ALTERNATIVE FUEL, EXTENDED CAB, 4 X 2 GVWR: 4,900 MINIMUM ENGINE: 4-CYLINDER 4 WHEEL ABS	19682.00000 EACH	203196009-02 STIVERS FORD LINCOLN INC STIVERS FORD LINCON INC	NET

DIVISION OF PURCHASING
CONTRACT NOTICE OF AWARD

COMMODITY LISTING

CONTRACT NUMBER/LINE #		COMMODITY NUMBER COMMODITY DESCRIPTION	UNIT PRICE MEASURE	VENDOR # NAME	TERM
		A/C AND HEAT AM/FM RADIO AUTOMATIC TRANSMISSION TILT STEERING BRAND: FORD MODEL: F150 EXTENDED CAB 4 X 2			
4013389	00017	070-98-082971 VEHICLE, MID-SIZE TRUCK, ALTERNATIVE FUEL, EXTENDED CAB, 4 X 4 GVWR: 4,900 MINIMUM ENGINE: 4-CYLINDER 4 WHEEL ABS A/C AND HEAT AM/FM RADIO AUTOMATIC TRANSMISSION TILT STEERING BRAND: FORD MODEL: F150 EXTENDED CAB 4 X 4	22707.00000 EACH	203196009-02 STIVERS FORD LINCOLN INC STIVERS FORD LINCON INC	NET
4013389	00018	070-98-086451 VEHICLE, FULL-SIZE TRUCK, 1/2 TON, 4 X 2, CREW CAB, MINIMUM 39" LEG ROOM, ALTERNATIVE FUEL GVWR: 6,000 MINIMUM ENGINE: V6 4 WHEEL ABS	23139.00000 EACH	203196009-02 STIVERS FORD LINCOLN INC STIVERS FORD LINCON INC	NET

DIVISION OF PURCHASING
CONTRACT NOTICE OF AWARD

STATE OF ALABAMA
DEPARTMENT OF FINANCE
DIVISION OF PURCHASING
CONTRACT NOTICE OF AWARD

VEHICLES - ALTERNATIVE FUEL
CONTRACT

T-NUMBER...... : T191A
USAGE......... : STATEWIDE CONTRACT
PERIOD......... : NOVEMBER 17, 2015 TO NOVEMBER 15, 2016
SOLICITATION NO : 2274029

CONTRACT BUYER...... : PAT HEMME

BUYER PHONE.. : (334) 242-7173 PURCHASING NUMBER......... : (334) 242-7250
FAX NUMBER... : (334) 242-4419
DATE PRINTED. : 04/01/16

DIVISION OF PURCHASING
CONTRACT NOTICE OF AWARD

TERMS AND CONDITIONS

FAMILIARIZE YOURSELF WITH THIS CONTRACT AND THE TERMS AND CONDITIONS REGARDING THE RESPONSIBILITIES OF THE STATE AND THE VENDORS.

```
* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *
*                                                                   *
* IT IS THE RESPONSIBILITY OF THE ORDERING AGENCY TO MAKE SURE THAT *
* ALL OF THE INFORMATION SUBMITTED ON THEIR REQUISITION IS CORRECT. *
* ALWAYS BE SURE TO RECHECK YOUR COMMODITY NUMBERS. AS SOON AS YOUR *
* PURCHASE ORDER ARRIVES, CHECK IT FOR ACCURACY.  IF THERE ARE ANY  *
* DISCREPANCIES, PLEASE NOTIFY THE VENDOR FIRST, THEN CONTACT THE   *
* BUYER LISTED ON THE FRONT OF THIS CONTRACT AS SOON AS POSSIBLE.   *
*          IN MOST INSTANCES, PROBLEMS CAN BE CORRECTED.            *
*                                                                   *
* COMPLAINTS MUST BE DOCUMENTED & SUBMITTED TO THE BUYER IN WRITING.*
*                                                                   *
* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *
```

SOLICITATION NUMBER : 2274029

PURPOSE:
THIS CONTRACT IS FOR ALTERNATIVE FUEL (E85) VEHICLES FOR STATE AGENCIES. PRICING MAY BE MADE AVAILABLE TO OTHER LOCAL GOVERNMENTAL AGENCIES, SUCH AS CITIES, COUNTIES, SCHOOLS, UNIVERSITIES, ETC.. NON-GOVERNMENT AGENCIES, SUCH AS NON-PROFIT, ARE NOT ELIGIBLE TO PURCHASE FROM THIS CONTRACT REGARDLESS OF FUNDING.

PAYMENT TERMS:
ALL STATE AGENCIES AND UNIVERSITIES PAYMENT TERMS ARE NET 30 AFTER

DIVISION OF PURCHASING
CONTRACT NOTICE OF AWARD

TERMS AND CONDITIONS

VEHICLE DELIVERY AND RECEIPT OF CORRECT INVOICE.

ALL OTHER LOCAL GOVERNMENTAL ENTITIES PAYMENT TERMS ARE UPON VEHICLE DELIVERY AND RECEIPT OF CORRECT INVOICE.

* NOTE: VENDORS MAY CHARGE STATE OR OTHER GOVERMENTAL ENTITIES PURCHASING FROM THIS CONTRACT INTEREST ON LATE PAYMENTS, IN ACCORDANCE WITH CODE OF ALABAMA 41-16-3.

CONTRACT PERIOD:
ESTABLISH A 12 MONTH CONTRACT WITH AN OPTION TO EXTEND FOR A SECOND,

RESOLUTION NO. 253-16

Purchase One (1) 2017 Ford Explorer 4X2 - OES.

RESOLUTION NO. ____________

WHEREAS, the Opelika Environmental Services Department desires to purchase one (1) 2017 Ford Explorer 4x2 with certain options utilizing State of Alabama Contract #T191; and

WHEREAS, Long Lewis Ford of the Shoals is the State Contract Vendor for the one (1) 2017 Ford Explorer 4x2; and

WHEREAS, funding will come from Capital Outlay;

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

1. That the purchase be awarded to Long Lewis Ford of the Shoals utilizing the State of Alabama Contract.

2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Long Lewis Ford of the Shoals in the total amount of $25,073.50.

3. That the Controller is authorized to adjust the budget as necessary for this purchase.

4. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.

APPROVED AND ADOPTED this the _____day of ___________________, 2016.

C. E. “Eddie” Smith, Jr.

President of the City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer

T191 Non Alternate Fuel Vehicles:
Long Lewis Ford of the Shoals: 2800 WOODWARD AVE, MUSCLE SHOALS ALABAMA, 35661 256-386-7800

Line 2 / Commodity Code: 07180400000
Commodity Description Vehicle Mid Size SUV Non Alternate Fuel 2 Wheel Drive 7 Passenger

2017 FORD EXPLORER 4X2

Minimum Wheel Base 105" – 115.9"
Engine V6
4 Wheel ABS
AC and Heat – Front and Rear
AM-FM Radio
Automatic Transmission
Cruise Control
Power Windows, Door Locks and Mirrors
Tilt Steering Column
Unit Price: $24,948.50

MECHANICAL
- 3.39 Non-limited-slip Rear Axle (FWD)
  18.6 gallon Fuel Tank
- 58 AH Battery
  Electric Power-Assisted Steering
- Engine – 3.5L Ti-VCT V6
  Four-Wheel Disc Brakes with ABS
- Hill Start Assist
- Independent Front and Rear Suspension
  Transmission – 6-Speed Automatic with SelectShift® Capability

EXTERIOR
- Black Molded-in-Color (MIC) Door Handles
  Black Molded-in-Color (MIC) Wheellip Molding
- Black Roof-Rack Side Rails
- Body-color Bumpers (Body-Color Top, Black Bottom)
  Body-color Spoiler
- Chrome Liftgate Appliqué
- Configurable Daytime Running Lamps (DRL)
- Dark Foundry Gray Painted Grille with Chrome Bars
  Dual Chrome Exhaust Tips
- Headlamps – Autolamp Auto On/Off, Auto LED Low Beams, Halogen Reflector High Beams
- LED Taillamps
- Lower Bodyside Cladding – Black
- Mini Spare
  Mirrors, Sideview – Power Glass, Manual-folding with Integrated Blind Spot Mirrors and Black Molded-in-Color (MIC) Caps (Integrated Blind Spot Mirrors not included when equipped with BLIS®)
- Privacy Glass – 2nd Row, 3rd Row and Lfitgate
- Roof-mounted Antenna
- Tires – P245/60R18 All-Season (A/S) BSW
- Wheels – 18" Painted Aluminum

INTERIOR/COMFORT
- 2nd and 3rd Row Dome/Map Lights
- 4-way adjustable driver and front-passenger head restraints (2-way up/down when Dual-Headrest DVD Entertainment System (50S) is ordered)
- Black Metallic Center Stack
- Cargo Hooks
- Climate Control
  – Manual Single Zone
  – Rear Auxiliary Climate Controls
  – Cabin Particulate Air Filter
- Console
  – Floor – Armrest / Storage
  – Overhead Console with Lights and Sunglasses Holder
- Cupholders – 10
- Dark Galvano Instrument Panel and Appliqués, Door/Interior Trim and Appliqués
- Door-sill Scuff Plates, Front and Rear – Molded-in-Color (MIC), embossed with "EXPLORER"
- Floor mats, Front and Rear – Color-keyed Carpet

● Grab Handles – Front-passenger and 2nd Row Outboard
• • Illuminated Visor Vanity Mirrors (Driver and Front Passenger)
• • Leather Gear Shift Knob
● Load Floor Tie-down Hooks
● Locking Glove Box
● Manual Tilt/Telescoping Steering Column
● Power Door Locks
● Power Windows and Locks with One-touch Up· /Down Driver and Passenger Windows

INTERIOR/COMFORT (continued)

● Seats, Cloth
– Front Buckets
– 8-way Power Driver Seat · (includes Power Lumbar and Manual Recline)
– 4-way Manual Passenger (includes Manual Recline)
– 2nd Row – 60/40 Split-Fold-Flat (Manual Fore/Aft adjustable seat on "40" section only)
– 3rd Row – 50/50 Split-folding
● Steering Wheel
– 5-Way Controls
– Paddle Shifters
– Secondary Audio Controls
– Speed Controls

SAFETY/SECURITY

● AdvanceTrac® with RSC® (Roll Stability Control™)
● Airbags
– Driver and Front Passenger Dual-Stage
– Front Passenger Knee Airbag
– 2nd Row Side
– 3rd Row Safety Canopy® Side-Curtain with Rollover Sensor
● Battery Saver Feature
● Belt-Minder® (front safety belt reminder)
● Front-Passenger Sensing System
● Illuminated Entry
● Individual Tire Pressure Monitoring System (TPMS)
● Keyless-entry Integrated Key Transmitter Remotes – two (2)
● LATCH (Lower Anchors and Tether Anchors for Children)
• • Rear View Camera with Washer
● Seat Belts with Pretensioner/Energy Management System w/adjustable height in front row
● SecuriLock® Passive Anti-Theft System (PATS)
● SOS Post-Crash Alert System™

FUNCTIONAL

● 4.2" Productivity Screen in Instrument Cluster (analog displays for fuel, speedometer and tachometer)
● Audio – Single-CD, MP3-Capable, six (6) Speakers
● Compass
● Cruise Control
● Easy Fuel® Capless Fuel Filler
● MyKey®
● Outside Temperature Display
● Powerpoints (12V) – four (4)
– Front row; one (1) in Media Hub, one (1) in front center console
– 2nd row; one (1) in rear section of center console, one (1) in rear cargo area
● Rear-window Defroster
• • SYNC®
– Enhanced Voice Recognition Communications and Entertainment System
– 911 Assist®
– 4.2" LCD Screen in Center Stack
– AppLink™
– One (1) Smart-Charging USB Port in the Media Hub

Note: SYNC® AppLink™ lets you control some of your favorite compatible mobile apps with your voice. It is compatible with select smartphone platforms. Commands may vary by phone and AppLink™ software.

● Trailer Sway Control
● Wipers – Front Speed-Sensitive Intermittent; Rear Two-Speed

Attachment: 10-4-16 - ONE (1) 2017 FORD EXPLORER 4X2 - STATE CONTRACT T191-CNCL PKT (253-16 : PURCHASE-ONE (1) 2017 FORD

200A XLT Includes all Base standard equipment, plus: $3,945.00
MECHANICAL
● Heavy-duty Front and Rear Brake Calipers
EXTERIOR
• • Body-color Door Handles
● Fog Lamps
• • Foundry Painted Grille with Chrome Bars
• • LED Signature Lighting
● Lower Bodyside Cladding - Chrome Accent
● Mirrors, Sideview - Heated with LED signal indicators, Security Approach Lamps and Gloss Black Finish Caps
● Painted Silver Front and Rear Skid Plate Elements
● Silver Roof-Rack Side Rails
● Wheels
— 18" Painted Aluminum (FWD only)
— 18" 5-spoke Painted Aluminum (4WD only)
INTERIOR/COMFORT
● Galvano Instrument Panel and Appliqués, Door/Interior Trim and Appliqués
● Seats, Unique Cloth
— 10-way Power Driver (includes Power Lumbar and Recline)
— 6-way Power Passenger (includes Manual Recline)
● Steering Wheel - Leather-wrapped
FUNCTIONAL
● Audio - SiriusXM® Radio
Note: Includes a six (6)-month prepaid subscription. Service is not available in Alaska and Hawaii.
Note: Subscriptions to all SiriusXM® services are sold by SiriusXM® after trial period. If you decide to continue service after your trial, the subscription plan you choose will automatically renew thereafter and you will be charged according to your chosen payment method at then-current rates. Fees and taxes apply. To cancel you must call SiriusXM® at 1-866-635-2349. See SiriusXM® Customer Agreement for complete terms at www.siriusxm.com. All fees and programming subject to change. Sirius, XM and all related marks and logos are trademarks of Sirius XM Radio Inc.
• • Intelligent Access with Push-button Start
● Reverse Sensing System
● SecuriCode™ Keyless-entry Keypad
SAFETY/SECURITY
● Perimeter Alarm

201A XLT Includes all Base standard and 200A equipment plus:
$5,550.00
Driver Connect Package
• • SYNC® with MyFord Touch® Voice-Activated Communications and Entertainment System - includes 911 Assist®, Vehicle Health Report (VHR) and SYNC® Note: One (1) year of SYNC® Services is provided complimentary
Services, 8" LCD touchscreen in center stack, one (1) Smart-Charging Multimedia USB Port and one (1) Powerpoint in Media Hub and SD Card Reader
• • Two (2) Driver configurable 4.2" color LCD displays in instrument cluster
• • Front center console - one (1) Smart-Charging Multimedia USB Port (replaces the front center console Powerpoint port)
• • Auto-dimming Rearview Mirror
Note: One (1) year of SYNC® Services is provided complimentary
Premium Audio System with nine (9) Speakers
Remote Start System
Dual-Zone Electronic Automatic Temperature Control (DEATC)
10-way Power Passenger Seat (includes Power Lumbar and Recline)

202A XLT Includes all Base standard, 200A and 201A equipment plus: $9,250.00
Forward Sensing System
Comfort Package
• • Leather-trimmed Seats
• • Heated Front Seats

OPTIONS:

2.3L I-4 EcoBoost Engine (Base; XLT)	$995.00
Base 18 in Aluminum Painted Sparkle Silver Wheels	Std
XLT 18 in Aluminum Painted Sparkle Silver Wheels (FWD)	Std
18 in 5-spoke Aluminum Painted Sparkle Silver Wheels (incl w/ 4WD)	Incl
18 in 5-spoke Aluminum Painted Sparkle Silver Wheels (req 3.5L V6 Engine, FWD)	$495.00
20 in Ploished aluminum Wheels (req 3.5L V6 Engine; req 201A, 202A	$1,195.00
2nd Row Bucket Seats (XLT - req 202A)	$695.00
Trailer Tow Pkg - Class II (req 2.3L EcoBoost Engine; Base; XLT)	$395.00
Trailer Tow Pkg - Class III (req 3.5L V6 Engine; Base; XLT	$570.00
Dual-Panel Moonroof (XLT - req 201A, 202A)	$1,595.00
Inflatable Rear-Seatbelts (Base; XLT - req 200A)	$195.00
LED Fog Lamps (XLT)	$150.00
Inflatable Rear-Seatbelt Pkg (XLT - req 201A, 202A)q	
Bliss Plus Inflatable Rear-Seatbelt Pkg (XLT Req 201A, 202A)	$650.00
Cold Weather Pkg (XLT - req 201A)	$650.00
Hands-Free Liftgate (XLT - req 201A, 202A)	$550.00
Heated Steering Wheel (XLT - 202A)	$150.00
Ruby Red Metallic Tinted Clearcoat Paint	$395.00
Bronze Fire Metallic Tinted Clearcoat Paint (XLT)	$395.00
White Platinum Metallic Tri-Coat Metallic Paint (XLT)	$595.00
License Plate Bracket	N/C
All-Weather Floor Mats	$125
DVD Headrests (XLT)	$1,995.00
AUDIO:	
SiriusXM Satellite Radio (Base)	$195.00
SiriusXM Satellite Radio (XLT)	Std
Voice-Activated Navigation System (XLT - req 201A, 202A)	$795.00
Reverse Sensing System (Fleet Only)	$275.00
Daytime Running Lamps (Fleet Only)	$45.00
Engine Block Heater (Fleet Only)	$90.00
Rear Cargo Well Protector	$100.00
Cargo Shade	$130.00
Rear Bumper Protector	$75.00
Wheel Lock Kit (XLT - req 201A, 202A)	$75.00
Roof Rack Crossbars	$140.00
Smokers Kit with Element	$90.00
Splash Guards	$250.00

CHRISTINA CROTEAU
Fleet Manager
Long-Lewis Ford of the Shoals Inc.
256-710-5229 CELL

New Search Print Friendly Ask Buyer Bulletin Board

Solicitation: 150000000017 **T191 NON-ALTERNATIVE FUEL VEHICLES**

Issued: 9/3/15 Last Amended: 9/21/15 **Current Status: Awarded**

Start Date:	9/21/15 3:00 PM		
Closing Date:	10/7/15 5:00 PM CDT	**Doc Dept:**	Purchasing Division
Time Left:	Expired	**Buyer Name:**	Patrick Hemme
		Category:	
		Type:	Request for Bids(RFB)

Response Options

Respond Online | Print for Mailing

Buyer Information	Patrick Hemme (Pat.Hemme@purchasing.alabama.gov) Phone:334-242-7173 Ext: A Fax:	**Additional Dates**	**Bid Opening Date:**	10/8/15 10:00 AM	**Award Date:**	2/17/16
			Intent Posted Date:	02/04/2016	**More...** see Events tab	

Print Solicitation

Lots/Lines | Attachments | Additional Information | Terms | Criteria | Events | Q & A List | Amendment Histor | Public Bid Reading | Notice of Award

Lot	Line	Vendor	Description	Quantity	Unit	Unit Price
1	2	Opelika Chrysler Dodge Jeep Ra	VEHICLE, COMPACT SEDAN, NON-ALTERNATIVE FUEL WHEELBASE: 101" - 105.9" ENGINE: 4-CYLINDER 4 WHEEL ABS A/C AND HEAT AM/FM RADIO AUTOMATIC TRANSMISSION CRUISE CONTROL POWER WINDOWS, LOCKS, AND MIRRORS TILT STEERING MAKE: ____________ MODEL: ______________	1	EA	
1	10	Opelika Chrysler Dodge Jeep Ra	VEHICLE, FULL-SIZE SUV, NON-ALTERNATIVE FUEL, 2-WHEEL DRIVE, 8 PASSENGER MINIMUM WHEELBASE: 116" MINIMUM ENGINE: V8 4 WHEEL ABS A/C AND HEAT - FRONT AND REAR AM/FM RADIO AUTOMATIC TRANSMISSION CRUISE CONTROL POWER WINDOWS, LOCKS, AND MIRRORS TILT STEERING MAKE: ____________ MODEL: ______________	1	EA	
1	13	Opelika Chrysler Dodge Jeep Ra	VEHICLE, MID-SIZE TRUCK, NON-ALTERNATIVE FUEL, REGULAR CAB, 4 X 4 GVWR: 4,900 MINIMUM ENGINE: 4-CYLINDER 4 WHEEL ABS A/C AND HEAT AM/FM RADIO AUTOMATIC TRANSMISSION TILT STEERING MAKE: ____________ MODEL: ______________	1	EA	
1	7	Opelika Chrysler Dodge Jeep Ra	VEHICLE, COMPACT SUV, NON-ALTERNATIVE FUEL, 4-WHEEL DRIVE, 5 PASSENGER WHEELBASE: < 105" ENGINE: 4-CYLINDER 4 WHEEL ABS A/C AND HEAT AM/FM RADIO AUTOMATIC TRANSMISSION CRUISE CONTROL POWER WINDOWS, LOCKS, AND	1	EA	

Attachment: 10-4-16 - ONE (1) 2017 FORD EXPLORER 4X2 - STATE CONTRACT T191-CNCL PKT (253-16 : PURCHASE-ONE (1) 2017 FORD

1	35	Long Lewis Ford	VEHICLE, FULL-SIZE SUV, NON-ALTERNATIVE FUEL, 2-WHEEL DRIVE, 7 PASSENGER MINIMUM WHEELBASE: 116" MINIMUM ENGINE: V6 MINIMUM 4 WHEEL ABS A/C AND HEAT - FRONT AND REAR AM/FM RADIO AUTOMATIC TRANSMISSION CRUISE CONTROL POWER WINDOWS, LOCKS, AND MIRRORS TILT STEERING MAKE: ____________ MODEL: ______________	1	EA	$30,636.50(
1	43	Long Lewis Ford	VEHICLE, FULL-SIZE TRUCK, 1/2 TON, 4 X 4, CREW CAB, MINIMUM 39" LEG ROOM, NON-ALTERNATIVE FUEL GVWR: 6,000 MINIMUM ENGINE: V8 4 WHEEL ABS A/C AND HEAT AM/FM RADIO AUTOMATIC TRANSMISSION TILT STEERING MAKE: ____________ MODEL: ______________	1	EA	
1	27	Long Lewis Ford	VEHICLE, MID-SIZE VAN, NON-ALTERNATIVE FUEL, 7 PASSENGER ENGINE: V6 4 WHEEL ABS A/C AND HEAT AM/FM RADIO AUTOMATIC TRANSMISSION CRUISE CONTROL POWER WINDOWS, LOCKS, AND MIRRORS TILT STEERING MAKE: ____________ MODEL: ______________	1	EA	$22,372.50(
1	32	Long Lewis Ford	VEHICLE, MINI CARGO VAN, NON-ALTERNATIVE FUEL,2 PASSENGERGVWR: 4,900 MINIMUMENGINE: 4-CYLINDER4 WHEEL ABSA/C AND HEATAM/FM RADIOAUTOMATIC TRANSMISSIONTILT STEERINGMAKE: ____________ MODEL: ______________	1	EA	$19,848.50(
1	40	Long Lewis Ford	VEHICLE, MINI CARGO VAN, NON-ALTERNATIVE FUEL, 2 PASSENGER GVWR: 8,500 MINIMUM ENGINE: V6 MINIMUM 4 WHEEL ABS A/C AND HEAT AM/FM RADIO AUTOMATIC TRANSMISSION TILT STEERING MAKE: ____________ MODEL: ______________	1	EA	$21,657.50(
1	2	Long Lewis Ford	VEHICLE, COMPACT SEDAN, NON-ALTERNATIVE FUEL WHEELBASE: 101" - 105.9" ENGINE: 4-CYLINDER 4 WHEEL ABS A/C AND HEAT AM/FM RADIO AUTOMATIC TRANSMISSION CRUISE CONTROL POWER WINDOWS, LOCKS, AND MIRRORS TILT STEERING MAKE: ____________ MODEL: ______________	1	EA	$15,833.50(
1	8	Long Lewis Ford	VEHICLE, MID-SIZE SUV, NON-ALTERNATIVE FUEL, 2-WHEEL DRIVE, 7 PASSENGER MINIMUM WHEELBASE: 105" - 115.9" ENGINE: V6 4 WHEEL ABS A/C AND HEAT - FRONT AND REAR AM/FM RADIO AUTOMATIC TRANSMISSION CRUISE CONTROL POWER WINDOWS, LOCKS, AND MIRRORS TILT STEERING MAKE: ____________ MODEL: ______________	1	EA	$24,948.50(
1	14	Long Lewis Ford	VEHICLE, MID-SIZE TRUCK, NON-ALTERNATIVE FUEL, CREW CAB, 4 X 2 GVWR: 4,900 MINIMUM ENGINE: 4-CYLINDER 4 WHEEL ABS A/C AND HEAT AM/FM RADIO AUTOMATIC	1	EA	$23,207.50(

Attachment: 10-4-16 - ONE (1) 2017 FORD EXPLORER 4X2 - STATE CONTRACT T191-CNCL PKT (253-16 : PURCHASE-ONE (1) 2017 FORD

RESOLUTION NO. 254-16

Annual Appropriation Contract with EAMC, Emergency Transport.

RESOLUTION NO. _________

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

) That the proposed CONTRACT FOR SERVICES to be entered into between the City of Opelika and the East Alabama Healthcare Authority d/b/a East Alabama EMS LLC, a copy of which is hereto attached as Exhibit "A", be and the same is hereby approved, adopted, authorized, ratified and confirmed,

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

ADOPTED and APPROVED this the _______ day of _________________, 2016.

C. E. “Eddie” Smith, Jr.

President of City Council

City of Opelika, Alabama

Attest:

Robert G. Shuman, CMC

City Clerk - Treasurer

STATE OF ALABAMA

COUNTY OF LEE
CITY OF OPELIKA
CITY OF AUBURN

EMERGENCY RESPONSE, RESCUE AND AMBULANCE SERVICE AGREEMENT

THIS AGREEMENT is made and entered into by and between the **COUNTY OF LEE**, a Governmental Organization of Lee County, Alabama, hereinafter referred to as **"COUNTY";** the **CITY OF OPELIKA**, a Municipal Corporation of Lee County, Alabama, hereinafter referred to as "**OPELIKA**"; the **CITY OF AUBURN**, a Municipal Corporation of Lee County, Alabama, hereinafter referred to as "**AUBURN**"; and the **EAST ALABAMA HEALTHCARE AUTHORITY d/b/a EAST ALABAMA EMS LLC**, an Alabama Corporation, hereinafter referred to as the **"HOSPITAL".** The **COUNTY, OPELIKA** and **AUBURN** collectively will hereinafter be referred to as the **"GOVERNMENTS"**.

WITNESSETH

WHEREAS, the governing bodies of the GOVERNMENTS have determined that it is necessary for the protection of the health and welfare of the citizens of Lee County, Alabama, that "Emergency Response, "Routine Response", "Rescue Service" and "Ambulance Transport Services" be afforded, and in furtherance thereof they be desirous of providing prompt and adequate routine, convalescent and emergency ambulance service for the sick, lame and injured of Lee County; and

WHEREAS, "Emergency Response" is defined as: to answer a call for assistance with the needed personnel, equipment and transportation in an expeditious manner. This includes all types of calls from either E-911 dispatch and or other emergency personal calls; and

WHEREAS, "Routine Response" is defined as: to answer a call for assistance with the needed personnel, equipment and transportation in an expeditious manner. This includes all types of calls from regular dispatch and or other non-emergency personal calls; and

WHEREAS, "Rescue Service" is defined as: the primary "first responder unit" that arrives at the call location and renders needed first aid and extricates the patient from any entrapments. This includes all types of calls from either E-911 dispatch and or other emergency personal calls; and

WHEREAS, "Ambulance Transport Service" is defined as: the ability to respond, evaluate, transport and deliver the patient to a destination. This requires a vehicle equipped with a patient compartment and stretcher and licensed by the State of Alabama; and

WHEREAS, "Ambulance" is defined as: a motor vehicle used for the transporting of persons who are wounded, injured, ill or sick. This motor vehicle will meet or exceed the Ambulance Vehicle Specifications as defined by the State of Alabama Bureau of Environmental and Health Service Standards. (Section 420-2-1-1.04); and

WHEREAS, HOSPITAL currently provides an Emergency Medical Service, hereinafter referred to as "EMS" which consists of Routine Response, Emergency Response, Rescue Service, and Ambulance Transport Service for the Cities of Auburn and Opelika, and Lee County; and

WHEREAS, the GOVERNMENTS are desirous of the HOSPITAL to provide the Emergency Response, Routine Response, Rescue Services, and Ambulance Transport Services for Lee County.

NOW, THEREFORE, in furtherance of the foregoing recitals and in consideration of the sum of money hereinafter stipulated to be paid by the GOVERNMENTS to HOSPITAL, the services to be rendered by HOSPITAL and in consideration of the mutual covenants and agreements of the parties herein contained, said parties do covenant, agree and contract as follows:

AGREEMENTS

SERVICES - HOSPITAL

1.1 SERVICES. HOSPITAL will provide Routine Response, Emergency Response, and Ambulance Transport Services for the GOVERNMENTS. HOSPITAL will also provide Rescue Service outside the police jurisdiction of Opelika. HOSPITAL will provide these services twenty-four (24) hours per day, 365 days per year.

1.2 PERSONNEL. HOSPITAL will provide Emergency Medical Technician(s) (EMT), sufficient to staff each ambulance, each of whom will be trained in accordance with the minimum training standards set forth by the State of Alabama, and will be so certified either as an EMT-Basic, EMT-Intermediate, or EMT-Paramedic.

1.3 AMBULANCES. HOSPITAL will have ambulances, staffed with appropriate levels of Emergency Medical Technicians available for the GOVERNMENTS service, twenty-four (24) hours per day, seven (7) days per week.

1.4 MANAGEMENT. Management of the Services will be handled by the HOSPITAL's Emergency Medical Services Department. Day to day operations will be supervised by the Director of the Emergency Medical Services Department along with shift supervisors.

1.5 WORKERS' COMPENSATION TRANSFERS. HOSPITAL will provide, at no charge to GOVERNMENTS, five (5) ambulance transports within Lee County. These transports will be used by each of the GOVERNMENTS to offset work related employee transports. This service is not transferable to other agencies and expires in conjunction with this Agreement.

SERVICES

2.1 AUTHORIZATION. The GOVERNMENTS do hereby authorize HOSPITAL as the sole provider of "EMS services" (Emergency Response and Rescue Services), except as noted in Section 5.1, within the Lee County limits. Moreover, the GOVERNMENTS do grant to HOSPITAL a non-exclusive license to provide Routine Response and Ambulance Transport Services within the Lee County limits.

REGULATIONS

3.1 TRAFFIC LAWS. HOSPITAL will at all times comply with the traffic laws and ordinances applicable to and which may be in force in Lee County.

3.2 911 RESPONSE. The GOVERNMENTS do hereby require HOSPITAL to respond to all 911 calls in Lee County with an Advanced Life Support (ALS) Ambulance.

3.3 EMS REGULATIONS. HOSPITAL will comply with all laws, rules and regulations applicable to Emergency Response, Routine Response, Rescue Services and Ambulance Transport Services of the City, County, State of Alabama, and United States and particularly the rules and regulations of the State of Alabama, Department of Public Health, as the same now exists or may hereafter be amended.

TERM

4.1 CONTRACT TERM. The term of this Agreement shall commence on the **__1st__ day of __October__, 2016, and shall be effective for a period of one (1) year and shall terminate at midnight on the __30th___day of__September__, 2017.** This Agreement may also be terminated as follows:

4.2 TERMINATION DUE TO LEGISLATIVE OR ADMINISTRATIVE CHANGE.

Notwithstanding any other provision of this Agreement, in the event of enactment, adoption or promulgation of legislation, rules or regulations by the State, Local, or Federal government, or the Agencies or Departments of either of them which, during the term of this Agreement, requires substantial increased expenditures by HOSPITAL in order to comply with such legislation, rules or regulations, HOSPITAL shall immediately notify GOVERNMENTS in writing of such legislation, rule or regulation, and provide information concerning the anticipated increased costs. The parties shall then, during a period of ninety (90) days after such notice, negotiate a new Agreement or an amendment to this Agreement to cover such increased costs. If the parties are unable to agree, either party may cancel this Agreement by giving ninety (90) days notice of cancellation in writing to the other party.

4.3 ***TERMINATION BY FAILURE TO PERFORM.*** Either party may terminate this Agreement upon the failure of the other party to comply with, or cure any breach or default of any material term, condition or covenant of this Agreement within thirty (30) days after written notice by the terminating party to the other specifying with particularity the specific material term, condition or covenant which has not been performed or has been breached by the other party.

4.4 ***GENERAL TERMINATION.*** Either party may terminate this Agreement at any time with or without cause and without penalty, by giving the other party one hundred twenty (120) days prior written notice at any time during the term of this Agreement or any extension or renewal. If the governments terminate this agreement, each agrees to compensate the Hospital based on the settling up process noted below in Section 5.1.

COMPENSATION AND FINANCIAL

5.1 ***OPERATIONS AMOUNT.*** GOVERNMENTS each agree to pay HOSPITAL **$261,036** payable in quarterly installments of **$65,259** for Emergency Response, Routine Response, Ambulance Transport Services, and Rescue Services, except Opelika who agrees to provide its own rescue services.

5.2 ***CAPITAL AMOUNT.*** GOVERNMENTS each agree to pay HOSPITAL **$58,440** payable in quarterly installments of **$14,610**

5.3 ***PAYMENT DATE.*** GOVERNMENTS agree to issue the above quarterly payment within ten (10) days following the end of each quarter, in a routine manner, without need for invoices.

5.4 ***REVENUE.*** The HOSPITAL will bill patients and insurance companies for Ambulance Transport Services. HOSPITAL will retain all monies collected from these billings.

5.5 ***ALLOCATION.*** Revenues, contractual discounts, subsidies, operational expenses and capital expenses shall be allocated to the GOVERNMENTS based on actual use of the Lee County EMS service, either direct or back-up calls. This allocation pertains to bookkeeping procedures only. It does not affect the amount payable from the GOVERNMENTS to HOSPITAL.

5.6 ***RECORDS.*** HOSPITAL shall keep and maintain records reflecting all calls made and received, and an accurate record of the costs and expenses in the operation of the EMS Service.

5.7 ***BUDGET.*** Within sixty (60) days prior to the termination of this Agreement, HOSPITAL shall provide to the GOVERNMENTS an operating and capital budget which accurately and fairly projects the financial operation of the EMS Service for the next fiscal year.

5.8 ***INCOME STATEMENT.*** HOSPITAL shall provide to the GOVERNMENTS an annual income statement, which accurately reflects the financial condition of the EMS Service at September 30th. This income statement shall be delivered to GOVERNMENTS within one hundred fifty (150) days after the year end.

INDEPENDENT CONTRACTOR

6.1 ***HOSPITAL.*** In the performance of the work, duties and obligations evolving upon it under this Agreement, it is mutually understood and agreed that HOSPITAL is at all times acting and performing as an independent contractor; that GOVERNMENTS, shall neither have nor exercise control or direction over the methods by which HOSPITAL provides the work and services except that HOSPITAL, by this Agreement, agrees to perform the said work and services at all times in strict accordance with currently approved methods and that the sole interest of the GOVERNMENTS is to assure that said services shall be performed and rendered in a competent, efficient, and satisfactory manner.

6.2 ***HOSPITAL EMPLOYEES.*** HOSPITAL's employees shall not be deemed to be employees of the GOVERNMENTS and shall not act in an Agency capacity for GOVERNMENTS and shall not be entitled to any benefits provided by GOVERNMENTS to its employees, including, but not limited to vacation pay, sick leave, retirement benefits, social security, workers' compensation, disability or unemployment insurance benefits of any kind.

INSURANCE

7.1 ***WORKERS' COMPENSATION INSURANCE.*** HOSPITAL will, at HOSPITAL's expense, obtain and maintain appropriate workers' compensation coverage for HOSPITAL's employed personnel.

7.2 ***PROFESSIONAL LIABILITY INSURANCE.*** HOSPITAL will, at HOSPITAL's expense carry professional and comprehensive general and liability insurance covering HOSPITAL, its employed personnel and vehicles, in the minimum amount of $1,000,000 per occurrence and $1,000,000 annual aggregate during the term of this Agreement and an appropriate term thereafter. The deductible for the ambulance liability is $1,000 and the deductible for the professional liability is $50,000. Failure to obtain or maintain coverage will be cause for immediate termination of this Agreement.

7.3 INSURANCE COPIES AND CERTIFICATES. HOSPITAL will furnish copies to GOVERNMENTS, if requested by GOVERNMENTS, of each insurance policy and shall furnish copies of all amendments and renewals to each policy so long as this Agreement is in effect. HOSPITAL will additionally cause to be issued by such insurer or insurers a certificate thereof reflecting such coverage and shall instruct and obtain the consent of such insurer or insurers to provide prior written notice to GOVERNMENTS of the cancellation or proposed cancellation thereof for any cause.

GENERAL

8.1 APPLICABLE LAW. This Agreement shall be governed and construed under the laws of the State of Alabama.

8.2 SEVERABILITY. In the event that any of the provisions or portions of this Agreement are held unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, and portions thereof, shall not be affected thereby.

8.3 WAIVER. The failure by either party hereto to act with respect to any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition of this Agreement, regardless of the non-breaching party's knowledge of such preceding breach at the time of acceptance of such performance.

8.4 ASSIGNMENT. HOSPITAL will not assign or transfer its interest in this Agreement or delegate its duties and responsibilities hereunder without the written consent of the GOVERNMENTS.

8.5 COMPLETE AGREEMENT. This Agreement constitutes the complete understanding 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.

8.6 AMENDMENT. This Agreement may be amended at any time upon mutual consent of both GOVERNMENTS and the HOSPITAL, notwithstanding that the failure of either party to concur with an amendment proposed by the other provides no cause for termination of the Agreement before the date of expiration. Furthermore, all amendments must be in writing and signed by both the GOVERNMENTS and the HOSPITAL.

8.7 FORCE MAJEURE. If either of the parties hereto is delayed or prevented from fulfilling any of its obligations under this Agreement by Force Majeure, said parties shall not be liable under this Agreement for said delay or failure. "Force Majeure" means any cause beyond the reasonable control of a party, including but not limited to act of God, act or omission of civil or military authorities of a state or nation, fire, strike, flood, riot, war, delay of transportation, or inability due to the aforementioned causes to obtain necessary labor, materials or facilities.

8.8 LEGAL FEES. In the event either party elects or incurs legal expenses to enforce or interpret any provision of this Agreement, the prevailing party will be entitled to recover such legal expenses, including, without limitation, attorney's fees, costs and necessary disbursements, in addition to any other relief to which such party shall be entitled.

8.9 SUPERSEDING OF PRIOR AGREEMENT(S). This Agreement shall supersede any and all other agreements (written and/or oral) between HOSPITAL and GOVERNMENTS relating to Emergency Response, Routine Response, Ambulance Transport Services and Rescue Services.

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NOTICES

9.1 ***NOTICES.*** All notices hereunder shall be in writing, delivered personally or by certified or registered postal mails and shall be deemed given when delivered personally or when deposited in the United States Mail, addressed as below and with proper postage affixed.

TO HOSPITAL:

Terry Andrus
President
East Alabama Healthcare Authority
2000 Pepperell Parkway
Opelika, Alabama 36802

TO GOVERNMENTS:

LEE COUNTY:	**CITY OF OPELIKA:**	**CITY OF AUBURN:**
Bill English	Gary Fuller	Charles M. Duggan, Jr.
Lee County Probate Judge	Mayor of Opelika	City Manager
Lee County Court House	Opelika City Hall	City of Auburn
215 South 9th Street	204 South 7th Street	144 Tichenor Ave., Suite 1
Opelika, Alabama 36801	Opelika, AL 36801	Auburn, Alabama 36830

IN WITNESS WHEREOF, the parties represent that they have full authority to execute this Agreement and have executed this Agreement in multiple originals (two) as of the _________ day of ______________, 2016.

EAST ALABAMA HEALTHCARE AUTHORITY:

____
Terry Andrus
President

____
Samuel A. Price, Jr.
Vice President Finance

____
Roben H. Nutter
General Counsel

GOVERNMENTS:

LEE COUNTY:

____
Bill English
Probate Judge

____
Roger Rendleman
County Administrator

CITY OF AUBURN:

____
Bill Ham
Mayor

____
Charles M. Duggan, Jr.
City Manager

CITY OF OPELIKA:

____
Gary Fuller
Mayor

____
R. G. Shuman
City Clerk

RESOLUTION NO. 255-16

Amendment No. 5 to Agreement with ESG Operations, Inc.

RESOLUTION NO. __________

RESOLUTION APPROVING AMENDMENT NO. 5 TO AGREEMENT WITH ESG OPERATIONS, INC.

WHEREAS, ESG Operations, Inc. (“ESG”) and the City of Opelika (the “City”) heretofore entered into an Agreement for Operations, Maintenance and Management Services dated as of September 20, 2005 (herein called the “Original Agreement”) pursuant to which ESG agreed to operate, manage and provide those services formerly provided by the Wastewater Treatment Division of the Engineering Department, Wastewater Collection Division of the Engineering Department, Streets Division of the Public Works Department, Grounds Maintenance Division of the Public Works Department, Building Maintenance Division of the Public Works Department, Auto Shop Division of the Public Works Department, and Cemeteries Division of the Public Works Department; and

WHEREAS, the City and ESG entered into that certain First Amendment to the Original Agreement dated as of September 12, 2006; and

WHEREAS, the City and ESG entered into a certain Second Amendment to the Original Agreement dated as of October 20, 2010; and

WHEREAS, the City and ESG entered into a certain Third Amendment to the Original Agreement dated as of November 6, 2012; and

WHEREAS, the City and ESG entered into a certain Fourth Amendment to the Original Agreement dated as of April 1, 2014; and

WHEREAS, ESG and the City have agreed to amend ESG’s staffing plan by adding three (3) additional staff members and to increase ESG’s Base Fee by $163,200,; and

WHEREAS, a proposed Amendment No. 5 to the Original 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 Amendment No. 5; and

WHEREAS, to the extent not specifically amended by the five amendments, the Original Agreement will remain in full force and effect.

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

1. That the proposed Amendment No. 5 to be entered into between the City and ESG, a copy of which is attached hereto as Exhibit "A," is hereby approved, authorized, ratified and confirmed in substantially the form submitted to the City Council with such changes thereto (by addition or deletion) as the Mayor shall approve, which approval shall be conclusively evidenced by execution and delivery of said Amendment No. 5.

2. That the Mayor and the City Clerk are hereby authorized and directed to execute, attest and deliver said Amendment No. 5 and such other ancillary documents and certificates as may be necessary to effect the purpose and intent of said Amendment No. 5 and to carry out fully the transactions contemplated therein on behalf of the City.

3. That the officers of the City and any person or persons designated and authorized by any officers of the City to act in the name and on behalf of the City, or any one or more of them, are authorized to do or cause to be done or performed in the name and on behalf of the City such other acts and to execute 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 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 Amendment No. 5.

4. 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

ATTEST:

R. G. Shuman

City Clerk - Treasurer

AMENDMENT NO. 5
to the
AGREEMENT Between
ESG Operations, Inc.
And
Opelika, Alabama
For
Operations, Maintenance and Management Services

This Amendment is made and entered into this ____ day of ______, 2016, by and between the City of Opelika, Alabama (hereinafter Owner) and ESG Operations, Inc. (hereinafter ESG) as to that certain Agreement between the Owner and ESG dated as of September 20th, 2005, and as subsequently amended. The Owner and ESG, for and in consideration of the mutual covenants, agreements and promises as hereinafter set forth, do hereby agree to the following amendments to the existing agreement between the parties:

ADD new Article 2.21 as follows:

2.21 Provide Three (3) additional staff members to ESG's staffing plan along with uniforms, safety supplies, operating supplies, tools and equipment. At least one of these new staff members shall be trained and qualified to perform HVAC maintenance tasks.

ADD new Article 5.1.1 with the following new Article:

5.1.1 Owner shall pay to ESG for the additional staffing provided by the terms of Article 2.21 of this Amendment One Hundred and Sixty-Three Thousand and Two Hundred Dollars ($163,200) for the twelve (12) month contract period beginning on October 1, 2016. Said amount shall be considered to be part of the Base Fee and shall represent an increase to the Base Fee established for the same twelve (12) month contract period (beginning on October 1, 2016 and ending on September 30, 2017) and shall be payable in monthly installments.

All remaining terms and conditions of the Agreement, inclusive of previous amendments, not specifically amended by this Amendment No. 5, shall remain in full force and effect.

Both parties indicate their approval of this Amendment by signature below.

Authorized signatures:

CITY OF OPELIKA, ALABAMA

By: ________________________________
Gary Fuller, Mayor

Date: ______________________________

ESG OPERATIONS, INC.

By: ________________________________
J. Clay Sykes, PE, Principal

By: ________________________________
Daniel E. Groselle, Jr., PE, Principal

Date: ______________________________

RESOLUTION NO. 256-16

New Position for an Engineering Department Co-Op

RESOLUTION NO. _____________

RESOLUTION AUTHORIZING NEW TEMPORARY POSITION OF CIVIL ENGINEERING CO-OP STUDENTIN THE ENGINEERING DEPARTMENT

WHEREAS, the Mayor has submitted his recommendation to the City Council to authorize the new temporary position of Civil Engineering Co-Op Student in the Engineering Department and to amend the organizational chart of the Engineering Department of the City of Opelika.

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

1. That the new temporary position of Civil Engineering Co-Op Student in the Engineering Department is hereby approved and authorized by the City Council. The compensation pay range for said position shall be equal to pay grade 13 beginning at $14.86 per hour as established in the City's pay plan and will be subject to all pay policies currently in effect.

2. The position of Civil Engineering Co-Op Student is a full time, non-exempt temporary position. The employee will normally be scheduled to work forty (40) hours or less per week. The employee shall not be eligible to participate in the City's group medical, dental and life insurance programs and its retirement plans. The employee will not be eligible to participate in any City provided employee benefits except as mandated by state or federal law. The temporary service employment will not exceed six (6) consecutive months in duration. The

temporary service employee of any Civil Engineering Co-Op student shall be designated as a probationary employee. Only one person may fill the position at one time.

3. That the job description of Civil Engineering Co-Op Student, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, is hereby approved by the City Council.

4. That the City Engineer and the Controller are hereby authorized and directed to modify the organizational chart of the Engineering Department to implement the changes in personnel as contemplated by this Resolution.

5. That the Controller is authorized to make the appropriate budget adjustments to implement this Resolution.

6. 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
POSITION DESCRIPTION

TITLE: CIVIL ENGINEERING CO-OP STUDENT

GENERAL DESCRIPTION

The essential function of the position within the organization is to assist in the daily operations of the City's Engineering Department. The position is responsible for assisting with inspections of new construction, public relations, conducting studies, preparing contract specifications and bid packages, reviewing construction plans, designing and preparing construction plans and maps, and performing related administrative and clerical tasks as directed by an Engineer. The position works somewhat independently, reporting major activities through periodic meetings

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

Assist in inspections of city-financed and privately developed construction projects; prepares punch lists.

Assist the Engineering Department in oversight, analysis and ongoing improvements to the Department through management of City Paving System.

Assist the Engineering Department in the management of administrative matters such as preparing correspondence, conducting special studies, preparing routine or special reports, or making presentations at public hearings or to the Mayor, City Council, and Planning Commission.

Assist the Engineering Department in the inspection of roads, and commercial sites and buildings, reviews road, drainage and sewer plans for private developers and Alabama Department of Transportation; assist in the preparation of contract specifications and bid packages.

Assist the Engineering Department in the design of roadway, drainage and traffic signal construction projects; calculates quantity and cost of materials for construction projects for other City departments.

Assist the Engineering Department in the preparation of design plans and miscellaneous drawings and maps utilizing custom computer applications; assists with and recommends modifications to City maps.

Assist in inspections of active development sites and detention facilities and prepares related reports.

Assist in routine inspections of all active development sites and following a measurable rain event.

Assist in the responding of complaints and concerns from the general public in regards to land disturbing activities.

Reviews erosion and sediment control and post construction detention plans to ensure compliance with City ordinance and policies.

Assist in the management of the City's water sampling program that includes the coordination, collection, analysis and delivery of storm water, and stream monitoring samples.

Assists in the investigation of causes of stream bacteriological contamination.

Reviews site development plans for compliance with illicit discharge, erosion and sediment control, and post construction management ordinances for compliance with City, state and federal laws.

Assist the development and organizes various tracking databases into GIS compatible format.

Performs other related duties as assigned.

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

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

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

Provides assistance to people to achieve task completion; may instruct, or assign duties to coworkers if instructed. Assigns work in terms of very general instructions when needed. The supervisor spot-checks completed work for compliance with procedures and the nature and propriety of the final results.

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

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

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

Requires minimum responsibility for only small quantities of low cost items or supplies where opportunities for achieving economies or preventing loss are negligible.

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

Uses practical application of fractions, percentages, ratios and proportions, measurements, or logarithms; may use algebraic solutions of equations and equalities, deductive geometry, and/or descriptive statistics; may use advanced calculus using such factors as limits, real number systems, or mean values.

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

Contacts are typically with co-workers, representatives of state and federal agencies, vendors, engineering consultants, developers, contractors, members of environmental organizations, and members of the general public. Contacts are typically to give or exchange information and resolve problems. Reads technical instructions, charts, and/or procedures manuals; completes job forms; speaks compound sentences using standard grammar.

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

Performs work involving policy and guidelines, solving both people and work related problems; requires continuous, close attention for accurate results and frequent exposure to unusual pressure.

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

Occasionally guides others, requiring minor decisions, affecting the individual, co-workers, and others; works in a somewhat fluid environment with rules and procedures but many variations from the routine.

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

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

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

Must be currently enrolled in school full-time, pursuing a bachelor's degree in Civil Engineering with a minimum grade point average (GPA) of 2.0.

Work experience and specialized vocational training in engineering, surveying, storm water management or a closely related field may will be a plus.

<u>KNOWLEDGE, SKILLS AND ABILITIES:</u> Knowledge of infrastructure construction management, CAD design software, and erosion and sediment control best management practices. Knowledge of sediment transport, hydraulics, hydrology, construction and staging practices. Skill in the operation of computers and job related software programs. Skill in operating standard office equipment. Skill in performing basic mathematical calculations such as addition, subtraction, multiplication, division, and percentages. Skill in decision making and problem solving. Skill in interpersonal relations and in dealing with the public. Skill in oral and written communication. Ability to work cooperatively with others.

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

None

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

Possession of or ability to readily obtain a valid driver's license for the type of vehicle or equipment operated.

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

The work is typically performed while sitting at a desk or table or while intermittently sitting, standing, stooping, walking, bending or crouching. The employee frequently lifts light objects weighing less than 24 pounds and occasionally lifts heavy objects weighing 25 or more pounds. The employee distinguishes between shades of color and utilizes the sense of smell. The work is typically performed in an office and outdoors, occasionally in cold or inclement weather. The employee may be exposed to noise, dust, dirt, grease, and machinery with moving parts.

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

Engineering Co-Op Student

Requires no responsibility for the safety and health of others.

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

The position is exposed to no unusual environmental hazards.

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

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

AMERICANS WITH DISABILITIES ACT COMPLIANCE

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

RESOLUTION NO. 257-16

Agreement with PFM Financial Advisors, LLC.

RESOLUTION NO. ____________

RESOLUTION APPROVING AGREEMENT FOR FINANCIAL ADVISORY SERVICES WITH PFM FINANCIAL ADVISORS, LLC

WHEREAS, from time to time the City of Opelika, Alabama, (the "City") has need of financial advisory services related to bond issuance and other matters; and

WHEREAS, PFM Financial Advisors, LLC ("PFM") has demonstrated expertise in this field and is capable of providing the necessary financial advisory services to the City; and

WHEREAS, the City desires to engage PFM as its financial advisor to develop and assist in implementing the City's strategies to meet its current and long term financial needs and render assistance in respect to said transactions;

WHEREAS, a proposed AGREEMENT FOR FINANCIAL ADVISORY SERVICES (the "Agreement") to be entered into between the City and PFM 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 Agreement.

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

1. That the proposed AGREEMENT FOR FINANCIAL ADVISORY SERVICES to be entered into between the City and PFM, 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 Agreement.

2. That the Mayor is further authorized and directed to execute and deliver the Agreement in the name and on behalf of the City and to execute and deliver or cause to be executed or delivered in the name and on behalf of the City such other ancillary documents and certificates as may be necessary to effect the purpose and intent of said Agreement and to carry out fully the actions herein contemplated on behalf of the City.

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

4. That 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

ATTEST:

____

CITY CLERK

AGREEMENT FOR FINANCIAL ADVISORY SERVICES

between
CITY OF OPELIKA, ALABAMA
and
PFM FINANCIAL ADVISORS LLC

This agreement ("Agreement"), made and entered into this ___ day of ____________, 2016, by and between The City of Opelika, Alabama ("Client") and PFM Financial Advisors LLC (hereinafter called the "PFM") sets forth the terms and conditions under which PFM shall provide services.

WHEREAS, Client is desirous of obtaining the services of a financial advisor to develop and assist in implementing Client's strategies to meet its current and long-term operations, financial obligations, capital financing needs and render assistance in respect to debt transactions; and

WHEREAS, PFM is capable of providing the necessary financial advisory services.

NOW, THEREFORE, in consideration of the above mentioned premises and intending to be legally bound hereby, Client and PFM agree as follows:

I. SCOPE OF SERVICES

PFM shall provide, upon request of the Client, services related to financial planning, budget and strategic advice and planning, policy development and services related to debt issuance, as applicable and set forth in Exhibit A to this Agreement. Client acknowledges and agrees that most tasks requested by Client will not require all services provided for in Exhibit A and as such the specific scope of services for such task shall be limited to just those services required to complete the task. Any material changes in or additions to the scope of services described in Exhibit A shall be promptly reflected in a written supplement or amendment to this Agreement. Services provided by PFM which are not specifically referenced in the scope of services set forth in Exhibit A of this Agreement shall be completed as agreed in writing in advance between the Client and PFM. Upon request of Client, PFM or an affiliate of PFM may agree to additional services to be provided by PFM or an affiliate of PFM, by a separate agreement between the Client and PFM or its respective affiliate.

II. WORK SCHEDULE

The services of PFM are to commence as soon as practicable after the execution of this Agreement and a request by the Client for such service.

III. REGISTERED MUNICIPAL ADVISOR; REQUIRED DISCLOSURES

1. PFM is a registered municipal advisor with the Securities and Exchange Commission (the "SEC") and the Municipal Securities Rulemaking Board (the "MSRB"), pursuant to the Securities Exchange Act of 1934 Rule 15Ba1-2. If Client has designated PFM as its independent

registered municipal advisor ("IRMA") for purposes of SEC Rule 15Ba1-1(d)(3)(vi) (the "IRMA exemption"), then services provided pursuant to such designation shall be the services described in Exhibit A hereto, subject to any limitations described thereon. PFM shall not be responsible for, and shall be held harmless from and against any party in connection with, verifying that PFM is independent from any other party seeking to rely on the IRMA exemption (as such independent status is required pursuant to the IRMA exemption, as interpreted from time to time by the SEC). Client acknowledges and agrees that any reference to PFM, its personnel and its role as IRMA, including in the written representation of Client required under SEC Rule 15Ba1-1(d)(3)(vi)(B) shall be subject to prior approval by PFM. Client further agrees not to represent that PFM is Client's IRMA with respect to any aspect of a municipal securities issuance or municipal financial product, outside of the scope of services without PFM's prior written consent.

2. MSRB Rule G-42 requires that municipal advisors make written disclosures to its Clients of all material conflicts of interest and certain legal or disciplinary events. Such disclosures are provided in PFM's Disclosure Statement delivered to Client together with this Agreement.

IV. FINANCIAL ADVISORY COMPENSATION

For the services provided under this Agreement, PFM's professional fees shall be paid as provided in Exhibit B to this Agreement and Client shall pay expenses and fees for other services not set forth in Exhibit A as provided below.

1. Reimbursable Expenses

In addition to fees for services, PFM will be reimbursed for necessary, reasonable, and documented out-of-pocket expenses incurred, including travel, meals, lodging, telephone, mail, and other ordinary cost and any actual extraordinary cost for graphics, printing, data processing and computer time which are incurred by PFM. Upon request of Client, documentation of such expenses will be provided.

2. Other Services

Any services which are not included in the scope of services set forth in Exhibit A of this Agreement will be subject to separate, mutually acceptable fee structures.

IV. TERMS AND TERMINATION

This Agreement shall be effective from ____________ until _____________ (the "Initial Term") and shall automatically renew for additional __ year periods (each a "Renewal Term" and together with the Initial Term, the "Term"). This Agreement shall remain in effect unless canceled in writing by either party upon thirty (30) days written notice to the other party.

V. ASSIGNMENT

PFM shall not assign any interest in this Agreement or subcontract any of the work performed under the Agreement without the prior written consent of the Client; provided that upon notice to Client, PFM may assign this Agreement or any interests hereunder to a municipal advisor entity registered with the SEC that directly or indirectly controls, is controlled by, or is under common control with, PFM.

VI. INFORMATION TO BE FURNISHED TO PFM

All information, data, reports, and records ("Data") in the possession of the Client or any third party necessary for carrying out any services to be performed under this Agreement shall be furnished to PFM and the Client shall, and shall cause its agent(s) to, cooperate with PFM in its conduct of reasonable due diligence in performing the services, including with respect to the facts that are necessary in its recommendation(s) to the Client in connection with a municipal securities transaction or municipal financial product and/or relevant to a Client's determination whether to proceed with a course of action. To the extent Client requests that PFM provide advice with regard to any recommendation made by a third party, Client will provide to PFM written direction to do so as well as any Data it has received from such third party relating to its recommendation. Client acknowledges and agrees that while PFM is relying on the Data in connection with its provision of the services under this Agreement, PFM makes no representation with respect to and shall not be responsible for the accuracy or completeness of such Data.

VII. NOTICES

All notices given under this Agreement shall be in writing, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the designated below. The parties designate the following as the respective places for giving notice, to-wit:

THE CITY OF OPELIKA, ALABAMA
204 South 7th Street
Opelika, AL 36801
Attention: City Administrator

PFM FINANCIAL ADVISORS LLC
116 Jefferson Street South
Suite 301
Huntsville, AL 35801
Attention: Managing Director

VIII. TITLE TRANSFER

All materials, except functioning or dynamic financial models, prepared by PFM pursuant exclusively to this Agreement shall be the property of the Client. Subject to the exception described above, upon termination of this Agreement, at Client's reasonable request no later than three 3 years after the termination of this Agreement PFM shall deliver to the Client copies of any and all material pertaining to this Agreement.

IX. PFM'S REPRESENTATIVES

1. Assignment of Named Individuals

The professional employees of PFM set forth below will provide the services set forth in this Agreement; provided that PFM may, from time to time, supplement or otherwise amend the team members set forth below.

- Phil Dotts, Managing Director
- Joshua McCoy, Senior Managing Consultant
- Marcie Porter, Senior Managing Consultant
- Ricardo Callender, Senior Analyst
- Olivia Menick, Analyst
- Kari Fox, Managing Associate

2. Changes in Staff Requested by the Client

The Client has the right to request, for any reason, PFM to replace any member of the advisory team. Should the Client make such a request, PFM shall promptly suggest a substitute for approval by the Client.

X. INSURANCE

PFM shall maintain insurance coverage with policy limits not less than as stated in Exhibit C.

XI. LIMITATION OF LIABILITY

Except to the extent caused by willful misconduct, bad faith, gross negligence or reckless disregard of obligations or duties under this Agreement on the part of PFM or any of its associated persons, neither PFM nor any of its associated persons shall have liability to any person for any act or omission in connection with performance of its services hereunder, or for any error of judgment or mistake of law, or for any loss arising out of any issuance of municipal securities, any municipal financial product or any other financial product or investment, or for any financial or other damages resulting from Client's election to act or not to act, as the case may be, contrary to or, absent negligence on the part of PFM or any of its associated persons, upon any advice or recommendation provided by PFM to Client.

XII. INDEPENDENT CONTRACTOR; NO THIRD-PARTY BENEFICIARY

PFM, its employees, officers and representatives at all times shall be independent contractors and shall not be deemed to be employees, agents, partners, servants and/or joint venturers of Client by virtue of this Agreement or any actions or services rendered under this Agreement. Nothing in this Agreement is intended or shall be construed to give any person, other than the Parties hereto, their successors and permitted assigns, any legal or equitable rights, remedy or claim under or in respect of this Agreement or any provisions contained herein.

XIII. APPLICABLE LAW

This Agreement shall be construed, enforced, and administered according to the laws of the State of Alabama. PFM and the Client agree that, should a disagreement arise as to the terms or enforcement of any provision of this Agreement, each party will in good faith attempt to resolve said disagreement prior to pursuing other action.

XIV. ENTIRE AGREEMENT; SEVERABILITY

This Agreement represents the entire agreement between Client and PFM and may not be amended or modified except in writing signed by both parties. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

XV. EXECUTION; COUNTERPARTS

Each party to this Agreement represents and warrants that the person or persons signing this Agreement on behalf of such party is authorized and empowered to sign and deliver this Agreement for such party. This Agreement may be signed in any number of counterparts, each of which shall be an original and all of which when taken together shall constitute one and the same document.

IN WITNESS THEREOF, the Client and PFM have executed this Agreement as of the day and year herein above written.

THE CITY OF OPELIKA, ALABAMA

By:___________________________________
Gary Fuller, Mayor

Date:_______________

PFM FINANCIAL ADVISORS LLC

By:___________________________________
Philip C. Dotts, Managing Director

Date:_______________

EXHIBIT A
SCOPE OF SERVICES

1. Services related to the Financial Planning and Policy Development upon request of the Client:

- Assist the Client in the formulation of Financial and Debt Policies and Administrative Procedures.

- Review current debt structure, identifying strengths and weaknesses of structure so that future debt issues can be designed to maximize ability to finance future capital needs. This will include, but not be limited to, reviewing existing debt for the possibility of refunding that debt to provide the Client with savings.

- Analyze future debt capacity to determine the Client's ability to raise future debt capital.

- Assist the Client in the development of the Client's Capital Improvement Program by identifying sources of capital funding.

- Assist the Client with the development of the Client's financial planning efforts and process by assessing capital needs, identifying potential revenue sources, analyze financing alternatives such as pay-as-you-go, lease/purchasing, short-term vs. long-term financings, assessments, user fees, impact fees, developer contributions, public/private projects, and grants and provide analysis of each alternative as required as to the budgetary and financial impact.

- Review the reports of accountants, independent engineers and other project feasibility consultants to ensure that such studies adequately address technical, economic, and financial risk factors affecting the marketability of any proposed revenue debt issues; provide bond market assumptions necessary for financial projections included in these studies; attend all relevant working sessions regarding the preparations, review and completion of such independent studies; and provide written comments and recommendations regarding assumptions, analytic methods, and conclusions contained therein.

- Develop, manage and maintain computer models for long-term capital planning which provide for inputs regarding levels of ad valorem and non-ad valorem taxation, growth rates by operating revenue and expenditure item, timing, magnitude and cost of debt issuance, and project operating and capital balances, selected operating and debt ratios and other financial performance measures as may be determined by the Client.

- Conduct strategic modeling and planning and related consulting.

- Attend meetings with Client’s staff, consultants and other professionals and the Client.

- Undertake financial planning and policy development assignments made by the Client regarding financings, and financial policy including budget, tax, cash management issues and related fiscal policy and programs.

- Assist the Client in preparing financial presentations for public hearings and/ or referendums.

- Provide special financial services as requested by the Client.

2. Services Related to Debt Transactions (Includes short term financings, notes, loans, letters of credit, line of credit and bonds); provided that if the transaction is competitive, the services of the financial advisor will be modified in advance in writing to reflect that process. Upon the request of the Client:

- Analyze financial and economic factors to determine if the issuance of bonds is appropriate.

- Develop a financing plan in concert with Client's staff which would include recommendations as to the timing and number of series of bonds to be issued.

- Assist the Client by recommending the best method of sale, either as a negotiated sale, private placement or a public sale. In a public sale, make recommendation as to the determination of the best bid. In the event of a negotiated sale, assist in the solicitation, review and evaluation of any investment banking proposals, and provide advice and information necessary to aid in such selection.

- Advise as to the various financing alternatives available to the Client.

- Develop alternatives related to debt transaction including evaluation of revenues available, maturity schedule and cash flow requirements.

- Evaluate benefits of bond insurance and/or security insurance for debt reserve fund.

- If appropriate, develop credit rating presentation and coordinate with the Client the overall presentation to rating agencies.

- Review underwriter's proposals and submit a written analysis of same to the Client.

- Assist the Client in the procurement of other services relating to debt issuance such as printing, paying agent, registrar, etc.

- Identify key bond covenant features and advise as to the financial consequences of provisions to be included in bond indentures, resolutions or other governing documents regarding security, creation of reserve funds, flow of funds, redemption provisions, additional parity debt tests, etc.; review and comment on successive drafts of bond governing documents.

- Review the requirements and submit analysis to bond insurers, rating agencies and other professionals as they pertain to the Client's obligation.

- Review the terms, conditions and structure of any proposed debt offering undertaken by the Client and provide suggestions, modifications and enhancements where appropriate and necessary to reflect the constraints or current financial policy and fiscal capability.

- Coordinate with Client's staff and other advisors as respects the furnishing of data for offering documents, it being specifically understood that PFM is not responsible for the inclusion or omission of any material in published offering documents.

- As applicable, advise the Client on the condition of the bond market at the time of sale, including volume, timing considerations, competing offerings, and general economic considerations.

- Assist and advise the Client in negotiations with investment banking groups regarding fees, pricing of the bonds and final terms of any security offering, and make recommendations regarding a proposed offering to obtain the most favorable financial terms based on existing market conditions.

- Arrange for the closing of the transaction including, but not limited, to bond printing, signing and final delivery of the bonds.

EXHIBIT B
COMPENSATION FOR SERVICES

For the services described, PFM's professional fees and expenses shall be paid as follows:

1. For services related to the issuance of debt, PFM will be paid a fee based on the schedule shown below at closing **OR** a fee to be agreed upon between Client and PFM in connection with the circumstances of each transaction.

Transactional Fee. The PFM transactional fee will be based on the schedule as shown below.

Bond Size:	**Fee per/$1,000**
First $5 million	$ 2.25
Next $5 million	$ 1.75
Next $15 million	$ 1.25
Next $25 million	$ 1.00
Over $50 million	$ 0.75

25% Refunding Adjustment

Total Professional Fees

Fee Minimum:	$20,000.00
Fee Capped at:	$75,000.00

The transaction-based fee will be the same whether or not the sale is publicly sold on a negotiated basis, publicly sold based on a competitive bid, or privately placed through a competitive process. Two series sold within two months of one another will be counted as one transaction for PFM's fee purposes.

2. For services related to financial planning, policy development and financial analysis, client may choose either a retainer-based fee arrangement or an hourly fee arrangement as shown below:

A. **Retainer-based arrangement**. For services related to financial planning, policy development and financial analysis, PFM will receive an annual retainer of $12,500, payable quarterly in arrears

B. **Hourly fee arrangement**. PFM shall receive hourly rates as listed below. Fees for support staff are included in the hourly rates for professionals. Services will be billed monthly.

<u>Experience Level Hourly Rate</u>

Managing Director/Director	$275
Senior Managing Consultant	$220
Senior Analyst/Analyst	$165
Managing Associate	$100

Reimbursable Expenses

Only extraordinary out-of-pocket expenses directly related to PFM's performance of its obligations under this Agreement will be billed to the Client for reimbursement and will be subject to the Client's prior written approval. Such expenses shall be billed at cost. PFM may not seek reimbursement for general office expenses, long-distance telephone, computer time or other similar expenses.

Special Services

Special Services described in Exhibit A will be subject to separate, mutually acceptable fee structures.

EXHIBIT C

Insurance Statement

Public Financial Management, Inc. ("PFM") has a complete insurance program, including property, casualty, comprehensive general liability, automobile liability and workers compensation. PFM maintains professional liability and fidelity bond coverages which total $25 million and $10 million, respectively. PFM also carries a $10 million cyber liability policy.

Our Professional Liability policy is a "claims made" policy and our General Liability policy claims would be made by occurrence.

Deductibles/SIR:
Automobile $250 comprehensive & $500 collision
Cyber Liability $50,000
General Liability $0
Professional Liability (E&O) $1,000,000
Financial Institution Bond $75,000

Insurance Company & AM Best Rating
Professional Liability (E&O) ……………… Endurance American Specialty Insurance; (A:XV)
…………………………………………….XL Specialty Insurance Company; (A:XV)
…………………………………………….Continental Casualty Company; (A:XV)
…………………………………………….Starr Indemnity & Liability Company; (A:XIV)
Financial Institution Bond ………………….Federal Insurance Company; (A++/XV)
Cyber Liability ………………………………Indian Harbor Insurance Company (A)
General Liability ……………………………Great Northern Insurance Company; (A++/XV)
Automobile Liability ………………………..Federal Insurance Company; (A++/XV)
Excess /Umbrella Liability …………………Federal Insurance Company; (A++/XV)
Workers Compensation ……………………Great Northern Insurance Company; (A++/XV)
& Employers Liability

RESOLUTION NO. 258-16

Special Appropriation to Main Street - 2016 Christmas in a Railroad Town.

RESOLUTION NO. _________

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

the Opelika Main Street with an annual appropriation; and

WHEREAS, Opelika Mainstreet has the need for additional funds to assist in covering expenses for the 2016 Christmas in a Railroad Town event, and

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

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

1. The City Council approves a special appropriation of $1,250.00 to Opelika Main Street with said funds designated to assist in covering the expenses involved with the 2016 Christmas in a Railroad Town event.

2. The Mayor and the Controller is hereby authorized and directed to move the funds as detailed below to the appropriate account:

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

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

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

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

ADOPTED and APPROVED this the _______ day of _______________, 2016.

____

C. E. "Eddie" Smith, Jr.

President City Council

City of Opelika, Alabama

ATTEST:

____

Robert G. Shuman, CMC

City Clerk - Treasurer

RESOLUTION NO. 259-16

Authorize Starting Salary - Community Relations Officer.

RESOLUTION NO. _____________

RESOLUTION AUTHORIZING HIGHER ENTRY LEVEL SALARY FOR POSITION OF COMMUNITY RELATIONS OFFICER

WHEREAS, the Mayor has the authority to appoint an employee to a vacant, budgeted position; and

WHEREAS, the minimum rate of pay for the position of Community Relations Officer at pay grade 17 is $41,422.58 and the maximum rate of pay is $56,485.34; and

WHEREAS, Section 11.7.3 of the City's Personnel Manual authorizes the Mayor to pay a newly employed classified employee up to ten percent (10%) above the minimum rate of pay as authorized by the City's classification and pay plan; and

WHEREAS, the position of Community Relations Officer is critical and the Mayor is of the opinion that he will be unable to fill said position with a qualified applicant at the entry level rate of pay; and

WHEREAS, the Mayor and Human Resources Director have recommended that the starting salary for the position of Community Relations Officer be raised to no more than $48,000, which amount is within the allowable range of pay for the position.

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

1. That the Mayor is hereby authorized to fill the position of Community Relations

Officer, at such time as said position is vacant, with a qualified applicant at a starting salary of no more than $48,000.

2. That the Mayor and the Community Relations Officer are hereby authorized and directed to make the necessary accounting and budgetary adjustments to carry into effect the provisions of this Resolution.

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

4. That 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

ORDINANCE NO. 124-16-ORD

Rights-Of-Way Use Agreement with Southern Light, LLC - 2Nd 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 is 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 modem 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 he 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 fmding 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

If to Southern Light, to:

Southern Light, LLC
ATTN: Kelly A. McGriff, General Counsel
107 St. Francis Street, Suite 1800
Mobile, AL 36602

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 of 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.

____________________________________ SEAL
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 arid 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)(l). 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 l(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.

ORDINANCE NO. 125-16-ORD

Sale City Property Located at 10962 Lee Road 0279 - First Reading.

ORDINANCE NO. __________

ORDINANCE AUTHORIZING THE CONVEYANCE OF

REAL PROPERTY TO WILLIAM HARRISON

(10962 LEE ROAD 279)

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 real property of the City of Opelika, Alabama, is no longer needed for public or municipal purposes, to-wit:

> Lots 1 and 2 of Block B, Beulah Estates, as shown by map or plat of said subdivision recorded in Plat Book 7 at Page 114 in the Office of the Judge of Probate of Lee County, Alabama.
>
> Said lots being further described as Tax Parcels 43-02-06-14-000-032.000 according to the records in the office of the Lee County Revenue Commissioner.
>
> The address of the above-described property is 10962 Lee Road 0279, Cusseta, AL 36852.

Section 2. The City of Opelika having received an offer from William Harrison to purchase the real property described in Section 1, above, it is hereby declared to be in the best interest of the public and the City of Opelika to sell said real property to William Harrison in the consideration of the sum of Five Thousand, Five Hundred Dollars ($5,500,00).

Section 3. The Mayor is hereby authorized and directed to execute for and in the name and on behalf of the City, a sales contract, between the City of Opelika and William Harrison and the City Clerk is hereby authorized and directed to affix the seal of the City to said contract and to attest the same. Said contract shall be substantially in the form attached as Exhibit “A” to this Ordinance, which form is hereby adopted in all respects as if set out in full in this ordinance, with such changes as may be approved by the Mayor.

Section 4. The Mayor and the City Clerk be, and they are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Opelika, Alabama, a statutory warranty deed, a copy of which is on file in the Office of the City Clerk, whereby the City of Opelika does convey the premises described in Section 1 hereof to William Harrison for and in consideration of the sum of $5,500.00, such purchase price to be satisfied as specified in the attached contract.

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

Section 6. 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.

Section 7. That Ordinance Number 120-16 adopted on September 6, 2016 is hereby repealed.

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

EXHIBIT "A"

STATE OF ALABAMA)
: **REAL ESTATE SALES AGREEMENT**
COUNTY OF LEE)

THIS AGREEMENT made and entered into this the ______ day of _________, 2016 by and between the City of Opelika, Alabama, a municipal corporation (hereinafter referred to as "Seller"), and William Harrison, (hereinafter referred to as "Purchaser").

WITNESSETH:

In consideration of the mutual covenants contained herein, Seller and Purchaser agree as follows:

1. **PURCHASE OF PROPERTY:** Seller hereby agrees to sell and convey unto Purchaser, and Purchaser hereby agrees to purchase from Seller, subject to the conditions hereinafter set forth, the following described real property located at 10962 Lee Road 279, Cusseta, Lee County, Alabama (hereinafter called "PROPERTY"), described as follows:

> Lots 1 and 2 of Block B, Beulah Estates, as shown by map or plat of said subdivision recorded in Plat Book 7 at Page 114 in the Office of the Judge of Probate of Lee County, Alabama.
>
> Said lots being further described as Tax Parcels 43-02-06-14-000-032.000 according to the records in the office of the Lee County Revenue Commissioner.
>
> The address of the above-described property is 10962 Lee Road 0279, Cusseta, AL 36852.
>
> Being the identical property forfeited to the City of Opelika under and pursuant to Order of Judgment entered by the Lee County Circuit Court on June 21, 2013 and recorded in Deed Book 2418 at Page 7 in the Office of the Judge of Probate of Lee County, Alabama.

2. **PURCHASE PRICE:** The purchase price for the PROPERTY shall be $5,500.00, payable in full at the time of closing.

3. **CLOSING:** Subject to the terms and provisions of this Contract, the "Closing" will

be held at City Hall, or at such other place as is mutually agreeable to the Seller and the Purchaser on a date to be designated by the Purchaser within thirty (30) days after the date hereof. At Closing and upon the payment of the entire purchase price as recited in this Contract, the Seller shall execute and deliver to Purchaser a good and sufficient statutory warranty deed conveying to the Purchaser title to the PROPERTY, subject only to:

(a) All easements, restrictions, reservations, covenants, conditions and rights-of-way as shown on the public records in the Office of the Judge of Probate of Lee County, Alabama, or which may be evidenced by possession, use or survey.

(b) All subdivision regulations and building codes of Lee County, Alabama.

In the event title to the PROPERTY is found to be defective and is not good and merchantable, then upon notification thereof by Purchaser to Seller, Seller shall have a reasonable time to correct the defects; but if such defects are not corrected within a reasonable period of time, then all rights and obligations arising hereunder shall terminate.

At closing, Purchaser shall deliver to Seller a check in the amount of the purchase price. The cost of preparing, executing and acknowledging any deeds or other instruments required to convey good and merchantable title to Purchaser in the manner described in this Contract shall be paid by the Seller. All other costs and expenses of closing shall borne by the Purchaser.

4. **POSSESSION:** Seller shall deliver to Purchaser possession of the property at closing.

5. **SALE OF PROPERTY "AS-IS".** As a material part of the consideration for this agreement, Purchaser agrees to accept the Property at closing on an **"AS-IS, AND WHERE IS BASIS"** with all faults and all latent and patent defects and without any representation or warranty as to the condition of the Property, all of which the Seller hereby disclaims.

6. **DEFAULT.** In the event of a default by Seller or Purchaser, the non-defaulting

party may state its or his intention to comply with the contract and seek specific performance of this contract or bring suit for damages.

7. **LEGAL FEES:** Each party agrees to pay its own legal fees for closing this transaction.

8. **SURVIVAL OF TERMS:** The Seller's covenants and representations shall survive the closing and shall not be merged in the deed delivered by Seller.

10. **BINDING EFFECT:** This Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, legal representatives, successors and assigns.

11. **ENTIRE AGREESMENT:** This Contract embodies the entire agreement between the parties hereto and there are no oral or parole agreements existing between the Seller and the Purchaser relating to the subject matter which is not expressly set forth herein and covered hereby.

12. **TIME OF ESSENCE:** Time is of the essence of this Contract.

13. **GENDER.** Words of any gender used in this Contract shall be held and construed to include any other gender and words in the singular shall include the plural and vice versa, unless the context requires otherwise.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have hereunto set their hands and seals on the day and date first above written.

CITY OF OPELIKA, ALABAMA.

By:_______________________________________
ITS MAYOR

ATTEST:

CITY CLERK

WILLIAM HARRISON

STATE OF ALABAMA)
: STATUTORY WARRANTY DEED
COUNTY OF LEE)

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of ten dollars ($10.00) and other good and valuable consideration to the undersigned GRANTOR, CITY OF OPELIKA, ALABAMA, a municipal corporation, in hand paid WILLIAM HARRISON, the receipt and sufficiency of which are hereby acknowledged, the said CITY OF OPELIKA, ALABAMA, does hereby grant, bargain, sell and convey unto the said WILLIAM HARRISON, herein referred to as GRANTEE, the following described real estate situated in Cusseta, Lee County, Alabama, to-wit:

> Lots 1 and 2 of Block B, Beulah Estates, as shown by map or plat of said subdivision recorded in Plat Book 7 at Page 114 in the Office of the Judge of Probate of Lee County, Alabama.
>
> Said lots being further described as Tax Parcel 43-02-06-14-000-032.000 according to the records in the office of the Lee County Revenue Commissioner.
>
> The address of the above-described property is 10962 Lee Road 0279, Cusseta, AL 36852.
>
> Being the identical property forfeited to the City of Opelika under and pursuant to Order of Judgment entered by the Lee County Circuit Court on June 21, 2013 and recorded in Deed Book 2418 at Page 7 in the Office of the Judge of Probate of Lee County, Alabama.

TO HAVE AND TO HOLD unto said WILLIAM HARRISON, his heirs and assigns forever.

IN WITNESS WHEREOF, the said CITY OF OPELIKA, ALABAMA, a municipal corporation, has caused this instrument to be executed by Gary Fuller, its Mayor, and its seal to be affixed by Robert G. Shuman, City Clerk, both of whom are hereunto authorized pursuant to Ordinance No. ________ of the City Council of the City of Opelika, Alabama, a copy of which is attached hereto and marked Exhibit “A” on this the ______ day of ___________________, 2016.

CITY OF OPELIKA, ALABAMA
a Municipal Corporation

By:_______________________________________
Gary Fuller
Mayor

ATTEST:

____
Robert G. Shuman
City Clerk

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that GARY FULLER and ROBERT G. SHUMAN, whose names as Mayor and City Clerk respectively, of the City of Opelika, Alabama, are signed to the foregoing instrument, and who are known to me, acknowledged before me this day, that, being informed of the contents of said instrument they, as such officers and with full authority, executed the same voluntarily on the day the same bears date.

GIVEN under my hand and seal of office this the ______ day of ________________. 2016.

____
NOTARY PUBLIC
My Commission Expires:_________

GRANTEE'S ADDRESS:

WILLIAM HARRISON
1175 Columbus Highway
Valley, AL 36854

This document prepared by:
Guy F. Gunter, III
City Attorney
City of Opelika
P.O. Box 390
Opelika, AL 36803
334-705-2074
334-705-5515 (Facsimile)
ggunter@opelika-al.gov

ORDINANCE NO. 126-16-ORD

Purchase Property at 608 Avenue A- First Reading.

ORDINANCE NO.__________

ORDINANCE AUTHORIZING THE PURCHASE OF REAL PROPERTY LOCATED AT 608 AVENUE A FROM MY SECOND HOME, LLC AND LEASE BACK OF THE SUBJECT PROPERTY TO MY SECOND HOME, LLC

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

Section 1. The Council upon evidence presented to and considered by it has found and determined and does hereby find, determine and declare as follows:

(a) The Council has determined that it is desirable and in the best interest of the City to acquire that certain real property located at 608 Avenue A in the City of Opelika, Alabama (the "Property"), which is legally described as follows:

Lots One-B (#1-B and Two-A (#2-A), Block 14, Grant Lands, Totten's Official Real Estate Map of the City of Opelika, according to and as shown by map or plat of record in Town Plat Book 2, at Page 9, in the Office of the Judge of Probate of Lee County, Alabama. LESS AND EXCEPT: Part of Lot 2-A, Block 14, Grant Lands, Totten's Official Real Estate Map of the City of Opelika, 1930, according to and as shown by map or plat of record in Town Plat Book 2, at Page 9, in the Office of the Judge of Probate of Lee County, Alabama, and being more particularly described as follows: Commence at the point in the City of Opelika, Lee County, Alabama, where the Southwest margin of South Sixth Street intersects the Northwest margin of Avenue A, then run South 45 deg. 00 min. 00 sec. West along said margin of Avenue A, 133.33 feet to the point of beginning of the parcel to be described herein; from said point of beginning, thence continue South 45 deg. 00 min. 00 sec. West along said margin, 44.50 feet; thence run North 45 deg. 00 min. 00 sec. West, 150.00 feet; thence run North 45 deg. 00 min. 00 sec. East, 44.50 feet; thence run South 45 deg. 00 min. 00 sec. East, 150.00 feet to the point of beginning.

(b) The Council has determined that a public purpose exists for the City to purchase the Property.

(c) The public purpose for purchasing the Property is to provide office space for the Opelika Municipal Court, including, but not limited to, the clerk, magistrates and probation officers.

(d) The purchase price for the Property is $420,000, a price commensurate with the market value of the Property.

(e) A Real Estate Sales Agreement (the "Agreement") has been prepared and submitted to the Council, and the Council finds and declares that it is in the best interest of the City and its citizens to approve said Agreement.

(f) The Real Estate Sales Agreement contains a provision (Section 3) providing for the lease back of the Property to the Seller for a period of four (4) months, commencing on the closing date and ending on February 11, 2017.

(g) The Council finds and declares that the Property will not be needed for public or municipal purposes until after February 11, 2017.

Section 2. The City is hereby authorized to purchase and acquire the Property described in Section 1 from My Second Home, LLC for the price of $420,000.

Section 3. The Mayor is hereby authorized and directed to execute for and in the name and on behalf of the City, a Real Estate Sales Agreement between the City and My Second Home, LLC, and the City Clerk is hereby authorized and directed to affix the seal of the City to said Agreement and to attest the same. Said agreement shall be substantially in the form attached as Exhibit "A" to this Ordinance, which form is hereby adopted in all respects as if set out in full in this ordinance, with such changes as may be approved by the Mayor.

Section 4. The City having received an offer from My Second Home, LLC, to lease the Property described in Section 1, above, it is declared to be in the best interest of the City and its citizens to lease said Property to My Second Home, LLC under the terms and conditions of the

Lease Agreement (the "Lease Agreement") attached to and made a part of the Real Estate Sales Agreement as Exhibit "A".

Section 5. Pursuant to the authority granted in §11-47-21 of the *Code of Alabama*, 1975, the Mayor is hereby authorized and directed to execute the Lease 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 Lease Agreement and to attest the same. Said Lease Agreement shall be in substantially the form attached as Exhibit "A" to the Real Estate Sales Agreement, which form is hereby adopted in all respects as set forth in this ordinance with such changes as may be approved by the Mayor.

Section 6. The Mayor, City Clerk and officers of the City are hereby authorized, directed and empowered to execute for and on behalf of the City and in its name any and all documents required in connection with the purchase of the Property including execution of any and all closing documents, settlement statements and certificates as such officers may deem necessary or advisable.

Section 7. The purchase price as specified in the Real Estate Sales Agreement shall be paid from the Unassigned Fund Balance. The Mayor and the Controller are hereby authorized and directed to make the appropriate budget adjustments and accounting entries necessary to carry out the transactions contemplated by this ordinance and the attached Real Estate Sales Agreement.

Section 8. This ordinance shall become effective immediately upon its adoption and publication as required by law.

Section 9. 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

EXHIBIT "A"

STATE OF ALABAMA)
: LEASE AGREEMENT
COUNTY OF LEE)

THIS LEASE AGREEMENT is made and entered into this the 4th day of October, 2016 at Opelika, Alabama, by and between the **City of Opelika, Alabama**, a municipal corporation, hereinafter referred to as "**LANDLORD"**, and **Jeffery A. Hilyer**, hereinafter referred to as "**TENANT**".

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

1. **Defined terms.** The following terms shall have the meaning set forth when used in this Agreement:

   A. "Closing Date" shall have the meaning given to such term in paragraph 4 of the Real Estate Sales Agreement dated as of October 4, 2016 between the Tenant, as Seller, and the Landlord, as Purchaser, relating to the property located at 608 Avenue A, Opelika, Alabama.

   B. "Landlord" shall mean the City of Opelika, Alabama.

   C. "Lease" shall mean this Lease Agreement.

   D. "Leased Premises" shall mean the property located at 608 Avenue A, Opelika, Alabama, as more particularly described in Section 1 of the Real Estate Sales Agreement.

   E. "REAL ESTATE SALES AGREEMENT" shall mean the agreement dated as of October 4, 2016 between the **TENANT**, as Seller, and the **LANDLORD**, as Purchaser, relating to the property located at 608 Avenue A, Opelika, Alabama.

F. "Tenant" shall mean My Second Home, LLC.

G. "Term" shall mean the term of this Lease Agreement commencing on the Closing Date and ending on February 11, 2017.

2. Property leased. **LANDLORD** hereby leases to **TENANT** and **TENANT** hereby leases from **LANDLORD** for the term and subject to the terms, covenants and conditions set forth in this Lease, the property located at 608 Avenue A, Opelika, Alabama, said premises being hereinafter referred to as the "Leased Premises".

3. Term. The term of this Lease (the "Term") shall be four (4) months commencing on the Closing Date and ending on February 11, 2017.

4. Rent. **TENANT** agrees to pay **LANDLORD** rent for the term of this Lease in the sum of twenty thousand dollars ($20,000.00), payable in four (4) consecutive equal monthly installments of $5,000.00, in advance on the 11th day of each calendar month commencing on October 11, 2016. **TENANT's** obligation to pay rent will continue up to the expiration of this Lease and will survive any earlier termination of this Lease. In the event any installment of rent is not paid within ten (10) days after it becomes due, a late fee of five percent (5%) of the past due rental shall also become immediately due and payable. Rental payments shall be made to the City of Opelika.

5. 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.

6. **Use.** The Leased Premises shall be used by the **TENANT** solely for an office to conduct an accounting and law practice and for no other use whatsoever.

7. **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 or property therein.

8. **Utilities.** **TENANT** agrees to pay all bills for utilities related to the **TENANT's** business. The responsibility for payment for utilities shall include but not be limited to electricity, telephone, Internet, water, sewage and all other utilities consumed in or at the Leased Premises.

9. **Repair and Maintenance.** The **TENANT** shall not permit any waste to the Leased Premises and shall at all times maintain the interior, non-structural portions of the Leased Premises in good condition and repair and shall keep the Leased Premises reasonably free from dirt or all other refuse matter. The **LANDLORD** agrees to maintain and repair the roof, the exterior walls, the exterior structural portions of the building and the parking area on the land. The **TENANT** shall be responsible for the repair and maintenance of the HVAC, electrical and plumbing systems during the term of the Lease. The **TENANT** shall keep all glass, including that in doors, windows and fixtures, clean and in good condition, and shall replace glass which may be damaged or broken with glass of the same quality. The **TENANT** shall also maintain the grounds outside the building.

10. Insurance. LANDLORD agrees to procure and keep in force during the term of this Agreement, fire and extended coverage, insurance on the building and **LANDLORD's** property. **LANDLORD's** insurance coverage shall not be required to cover any of **TENANT's** personal property and **TENANT** shall not have any claim against any of the proceeds of **LANDLORD's** coverage. **TENANT** agrees to provide and keep in full force general comprehensive commercial liability insurance with limits of not less than one million dollars ($1,000,000.00) for injury or death to any one person and one million dollars ($1,000,000.00) for any one accident to protect the **TENANT** and **LANDLORD** from general liability claims arising from **TENANT's** usage of the Leased Premises. The policy shall name the **LANDLORD** as an additional insured thereon. **TENANT** shall furnish **LANDLORD** with a certificate of insurance, in a form satisfactory to **LANDLORD**, evidencing such coverage.

11. Loss, Damage. LANDLORD shall not be liable for any loss, damage or expense to any person or property of **TENANT** or to the personal property of the **TENANT's** employees or invitees. **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 or gross negligence of **LANDLORD**, its agents, servants and/or employees.

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 damage to property, or 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,** its employees, guests, and invitees in the premises, and from all costs, expenses and 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 it will not commit waste thereon. **TENANT**, at **TENANT's** sole cost and expense, shall keep the Leased Premises, including the parking areas, in safe, neat and sanitary conditions, free of pests and vermin.

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 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. Assignment. TENANT shall not assign, transfer or encumber this Lease and shall not sublease the Leased Premises or any part thereof or allow any person to be in possession thereof without the prior written consent of **LANDLORD,** in each and every instance.

20. LANDLORD's Right of Entry. LANDLORD or LANDLORD's agent may enter at reasonable hours to inspect the Leased Premises, and to do anything **LANDLORD** may be required to do hereunder.

21. Alterations. TENANT may not make any material or structural alterations or additions in or to the Leased Premises without the prior written consent of **LANDLORD**.

22. Toxic or Hazardous Materials. TENANT shall not store, use or dispose of any toxic or hazardous materials in or about the Leased Premises without the prior written consent of **LANDLORD.**

23. 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 P.O. Box 30, Opelika, Alabama, or such address as **TENANT** may direct by written notice forwarded to **LANDLORD** by certified mail.

24. 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 partial rent, after the **TENANT's** default of any covenant hereof, shall not be deemed to constitute a cure of any such default unless expressed in writing and signed by the **LANDLORD.**

25. 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.

26. 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.

27. 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

____

JEFFERY A. HILYER--TENANT

REAL ESTATE SALES AGREEMENT

(WITH LEASE BACK PROVISIONS)

BETWEEN

MY SECOND HOME, LLC ("SELLER")

AND

THE CITY OF OPELIKA, ALABAMA ("PURCHASER")

STATE OF ALABAMA)
: **REAL ESTATE SALES AGREEMENT**
COUNTY OF LEE)

THIS AGREEMENT made and entered into this the 4th day of October, 2016 by and between **MY SECOND HOME, LLC**, an Alabama limited liability company, having address at 608 Avenue A, Opelika, Alabama (hereinafter referred to as "**SELLER**"): and the **CITY OF OPELIKA, ALABAMA**, a municipal corporation, having address at 204 South 7th Street, Opelika, Alabama (hereinafter referred to as "**PURCHASER**").

WITNESSETH:

In consideration of the mutual covenants contained herein, **SELLER** and **PURCHASER** agree as follows:

1. **PURCHASE OF PROPERTY.** **SELLER** hereby agrees to sell and convey unto **PURCHASER**, and **PURCHASER** hereby agrees to purchase from **SELLER**, subject to the conditions hereinafter set forth, the following described real property located at 608 Avenue A in the City of Opelika, Alabama (hereinafter called "PROPERTY"), described as follows:

> Lots One-B (#1-B and Two-A (#2-A), Block 14, Grant Lands, Totten's Official Real Estate Map of the City of Opelika, according to and as shown by map or plat of record in Town Plat Book 2, at Page 9, in the Office of the Judge of Probate of Lee County, Alabama. LESS AND EXCEPT: Part of Lot 2-A, Block 14, Grant Lands, Totten's Official Real Estate Map of the City of Opelika, 1930, according to and as shown by map or plat of record in Town Plat Book 2, at Page 9, in the Office of the Judge of Probate of Lee County, Alabama, and being more particularly described as follows: Commence at the point in the City of Opelika, Lee County, Alabama, where the Southwest margin of South Sixth Street intersects the Northwest margin of Avenue A, then run South 45 deg. 00 min. 00 sec. West along said margin of Avenue A, 133.33 feet to the point of beginning of the parcel to be described herein; from said point of beginning, thence continue South 45 deg. 00 min. 00 sec. West along said margin, 44.50 feet; thence run North 45 deg. 00 min. 00 sec. West, 150.00 feet; thence run North 45 deg. 00 min.

00 sec. East, 44.50 feet; thence run South 45 deg. 00 min. 00 sec. East, 150.00 feet to the point of beginning.

The conveyance by **SELLER** to **PURCHASER** of the PROPERTY shall include **SELLER'S** right, title and interest, if any, in and to the following:

A. All tracts, lots or parcels identified in the legal description, together with all parking lots, or other facilities used in connection with the PROPERTY.

B. All rights, privileges and easements pertinent to the PROPERTY, including, without limitation, all **SELLER'S** right, title and interest, if any, in and to all minerals, oils, gas or other hydrocarbon substances and all **SELLER'S** right, title and interest in and to all roads, easements, rights-of-way and alleys adjoining or servicing the PROPERTY.

C. All improvements and fixtures located on the PROPERTY, without limitation, the building and other improvements erected or existing thereon; all fixtures attached to or located on the PROPERTY or used in connection with the operation or occupation of the PROPERTY, such as heating and air conditioning systems, plumbing systems and fixtures, light fixtures and all facilities used to provide any utility ventilation, garbage disposal or other services on the PROPERTY.

D. All trees, shrubbery and vegetation located on the PROPERTY.

E. All built-in bookcases and the storage shelving in the basement., except the white cabinets in the six (6) back offices.

F. Built-in appliances.

Notwithstanding the foregoing, the conveyance by **SELLER** to **PURCHASER** of the PROPERTY shall specifically exclude the following (collectively "excluded items"):

A. Any tangible personal property that is located in or used in connection with the PROPERTY

B. **SELLER'S** artwork.

C. All trade equipment, furniture, furnishings, supplies, records, documents and other items of removable personal property relating to the operation of the **SELLER'S** business, including, without limitation, telecommunication equipment, security systems, computers, computer terminals and office equipment.

D. **SELLER'S** unattached cabinets, bookcases and shelving, including the white cabinets in the six (6) back offices (except the storage shelving in the basement).

2. **PURCHASE PRICE.** The purchase price for the PROPERTY shall be $420,000.00, payable in full at the time of closing.

3. **LEASE AGREEMENT.** Commencing on the Closing Date, **PURCHASER**, as Landlord, shall lease to Jeffery A. Hilyer, as Tenant, the PROPERTY described in Section 1 pursuant to a lease agreement (the "Lease Agreement") substantially in the form attached as Exhibit "A" hereto. The Lease Agreement shall have a term of four (4) months expiring on February 11, 2017.

4. **CLOSING:** Subject to the terms and provisions of this Contract, the "Closing" will be held at City Hall, or at such other place as is mutually agreeable to the **SELLER** and the **PURCHASER** on a date to be designated by the **PURCHASER** within seven (7) days after the date hereof. At Closing and upon the payment of the entire purchase price as recited in this Contract, the **SELLER** shall execute and deliver to **PURCHASER** a good and sufficient warranty deed conveying to the **PURCHASER** good and marketable title to the PROPERTY, subject only to:

(a) All easements, restrictions, reservations, covenants, conditions and rights-of-way as shown on the public records in the Office of the Judge of Probate of Lee County, Alabama, or which may be evidenced by possession, use or survey.
(b) All zoning ordinances and subdivision regulations of the City of Opelika.

In the event title to the PROPERTY is found to be defective and is not good and merchantable, then upon notification thereof by **PURCHASER** to **SELLER**, **SELLER** shall have a reasonable time to correct the defects; but if such defects are not corrected within a reasonable period of time, then all rights and obligations arising hereunder shall terminate.

At closing, **PURCHASER** shall deliver to **SELLER** a check in the amount of the purchase price. The cost of preparing, executing and acknowledging any deeds or other instruments required to convey good and merchantable title to **PURCHASER** in the manner described in this Contract shall be paid by the **SELLER**. Prior to closing, the **SELLER** shall pay the current year's property (ad valorem) taxes which become due and payable on October 1,2016 and shall provide proof of payment to the **PURCHASER** at closing. There shall be no proration of 2016-2017 property taxes and the **PURCHASER** shall be responsible for the payment of all property taxes on the real estate and the building located on the PROPERTY when they become due on October 1, 2017. The **SELLER** shall be responsible for the payment of all ad valorem taxes on the trade equipment, furniture, furnishings and removable personal property used in connection with the operation of the **SELLER'S** business. All other costs and expenses of closing shall borne by the **PURCHASER**.

5. **RISK OF LOSS**: **SELLER** shall bear the risk of all loss or damage to the premises from all causes until the closing date. If, prior to the closing date, all or part of the premises are damaged by fire or some other cause of whatsoever nature, **SELLER** shall promptly give **PURCHASER** written notice of such damage. After notice of such damage, **PURCHASER** shall have the option to require **SELLER** (1) to convey the premises, on the closing date, in its damaged condition, or (2) **PURCHASER** may, at its option, terminate the contract by written notice to the **SELLER**.

6. **<u>PROPERTY "As Is":</u>** **PURCHASER** has heretofore inspected the PROPERTY and is acquainted with the condition of the PROPERTY and the improvements thereon. **PURCHASER** agrees to take the PROPERTY "as is", in its present condition, subject to reasonable use, wear and tear. Until closing, **SELLER** agrees to maintain PROPERTY in its present condition, reasonable wear and tear excepted. The provisions of this Section shall survive closing and shall survive the expiration or earlier termination of this Agreement.

7. **<u>DISCLAIMER:</u>** **PURCHASER** acknowledges and agrees that **SELLER** does not make, and specifically negates and disclaims any representations, warranties (other than the warranty of title as set out in the deed), promises, covenants or guarantees of any kind or character whatsoever, whether expressed or implied, oral or written, past, present or future, of, as to, concerning or with respect to the nature, quality or condition of the PROPERTY, including, without limitation, the soil, geography and habitability or merchantability of any building situated on the PROPERTY. **PURCHASER** acknowledges and agrees that to the maximum extent permitted by law, the sale of the PROPERTY is provided for herein is made on an "AS-IS" condition and basis with all faults. All provisions of this Section shall survive closing or the expiration or earlier termination of this Agreement without closing as applicable.

8. **<u>POSSESSION:</u>** **SELLER** shall deliver to **PURCHASER** possession of the PROPERTY at the termination of the Lease Agreement pursuant to Section 3, except that Jeffery A. Hilyer, as Tenant, shall continue to have the right of possession to the basement storage room until April 30, 2017. All of **SELLER's** and Tenant's personal property, shall be removed from the Property at the expiration of the Lease excepted the Tenant's boxes and personal property in the basement storage room which shall be removed no later than April 30, 2017. Tenant shall

surrender to the **PURCHASER** (Landlord) all keys to the Property at the termination of the Lease.

9. **BROKERS**. Each party represents to the other that it has not dealt with any real estate broker or agent or finder in connection with this Agreement. The parties agree to indemnify and hold one another harmless based upon their actions and dealings of any claims or causes of any actions concerning any brokerage or finders' fees or commissions

10. **SELLER'S REPRESENTATIONS**. **SELLER** represents to **PURCHASER**, which representations shall be true, correct and complete as of the closing date hereunder, and which shall survive closing, as follows:

A. **SELLER** is, and at closing shall be, an Alabama domestic limited liability company, duly organized and validly existing, with full power and authority to conduct its business affairs in the state where the PROPERTY is located.

B. The execution, delivery and performance of this Agreement by **SELLER** in accordance with its terms do not violate **SELLER'S** Articles of Organization, operating agreements, or any contract, agreement, commitment, order, judgment or decree to which **SELLER** is a party or by which it is bound.

C. The execution, delivery and performance of this Agreement and the performance of the **SELLER** of its obligations hereunder have been duly authorized by all required action of **SELLER** and the members and/or officers of **SELLER** in full compliance of **SELLER'S** Articles of Organization and operating agreements. The person executing this Agreement on behalf of **SELLER** is duly authorized to do so.

E. The **SELLER** has the right, power and authority to make and perform its obligations under this Agreement, and this Agreement is a valid and binding obligation of **SELLER** and enforceable against **SELLER** in accordance with its terms.

11. **DEFAULT.** In the event of a default by **SELLER** or **PURCHASER**, the non-defaulting party may state its or his intention to comply with the contract and seek specific

performance of this contract or bring suit for damages.

12. **LEGAL FEES.** Each party agrees to pay its own legal fees for closing this transaction.

13. **SURVIVAL OF TERMS.** The **SELLER'S** covenants and representations shall survive the closing and shall not be merged in the deed delivered by **SELLER**.

14. **BINDING EFFECT.** This Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, legal representatives, successors and assigns.

15. **ENTIRE AGREESMENT.** This Contract embodies the entire agreement between the parties hereto and there are no oral or parole agreements existing between the **SELLER** and the **PURCHASER** relating to the subject matter which is not expressly set forth herein and covered hereby.

16. **TIME OF ESSENCE.** Time is of the essence of this Contract.

17. **CONSTRUCTION.** This Agreement shall be governed and construed in accordance with the State of Alabama.

18. **COUNTERPARTS.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument. The date of this Agreement shall be the date of **PURCHASER**'s execution hereof.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have hereunto set their hands and seals on the day and date first above written.

MY SECOND HOME, LLC--SELLER

By:____
JEFFERY A. HILYER,
ITS MANAGING MEMBER

CITY OF OPELIKA, ALABAMA--PURCHASER

By:____
ITS MAYOR

ATTEST:

____
CITY CLERK